













Minutes of Evidence  
1839

  
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# APPENDIX

## EVIDENCE

List of Witnesses examined on the subject of *Customs and Excise* are annexed to a Report of the Indian Law Commission dated 1st January, 1899.

	Date of Examination.	Names.	Native Country.	Occupation.
1	20th December, 1898,	Raj Govind Sen, .....	Purgunnah Sarai, Village Chuntoor, Tipperah, .....	Mooktear of the Rajah Tipperah.
2	Ditto, "	Tek Loll, .....	Behar, Village Fattalgah, Purgunnah Putehaka, .....	Mooktear in the Sudder Dewanny Adawlat, Calcutta.
3	2d January, 1899,	Vydia Nath Misser, .....	Tirhoot, Purgunnah Dharrout, .....	Fundit of the Presidency Sudder Dewanny Adawlat.
4	Ditto, "	Harnul Harnul, .....	Behar, District Patna, Purgunnah Sanda, .....	Vakeel of ditto.
5	12th Ditto, "	.....	.....	Magistrate of Sylhet.
6	15th Ditto, "	Dhurb Singh Das, .....	Purgunnah Cutteya, Northern Cuttack, .....	Orish Misal Khan in the Presidency Sudder Dewanny Adawlat.
7	18th Ditto, "	Kashe Nath Khan, .....	Village Sattren, Purgunnah Khatta, Rajshahye, .....	Agent of the Rances of the late Rajah Bishen Nath of Natore.
8	22d Ditto, "	Hy. Ricketts, Esq. ....	.....	Commissioner of Revenue and Circuit, 19th Division Cuttack.
9	25th Ditto, "	Tek Loll, in continuation.	.....	.....
10	26th Ditto, "	Ram Krishna Putsak, ...	Village Burmukhus Japore, Purgunnah Sarai, near Pooree, Southern Division, Cuttack.	Mooktear in the Sudder Board of Revenue, Calcutta.

## APPENDIX I.

### RAJ GOVIND SEN, MOOKTEAR OF THE RAJAH OF TIPPERAH.

I am a Native of the Purgunnah Sarael, Village Chuntoor, in Tipperah.

I am acquainted with the districts of Tipperah, Sylhet, Mymensing, Dacca and Chittagong.

In these districts there are two classes of slaves, the Kayat and Chundal.

The distinction between them is that the Kayat is pure and the superior castes receive water from him. The Chundal is impure and can only be employed in out-door work.

A slave is either so by descent or by sale. A free person may be sold either by both his parents, or the survivor of them, or by himself.

A free person who has attained majority, cannot be sold unless with his own consent.

These sales of freemen only take place in time of calamity.

Sometimes the consideration for which a freeman, sells himself, is marriage with a slave girl whom the master will not permit him to marry upon other terms.

Sometimes free persons are sold by themselves or by their parents to Mussulmans, and become Mussulmans. But no adult even if already a slave, can be sold to a Mussulman without his own consent.

If a Kayat slave were converted to Islamism he would become unfit for domestic use but would continue a slave and might be employed out of doors by a Hindoo master.

I am not aware that there is any importation of slaves for sale in the districts of which I speak. Though sometimes people going to Assam buy slaves there and bring them back with them.

The price of a young Kayat woman varies from forty rupees to one hundred. That of a young man from twenty to forty.

The price of a young Chundal woman varies from ten to twenty rupees. That of a young Chundal man is about the same.

The cause of the high comparative value of the female among Kayat slaves is that she attends upon the ladies of the family.

The price of a Kayat female child is from twenty to thirty rupees. That of a male child from ten to twenty-five rupees.

That of a female Chundal child is from seven to ten rupees. That of a male child the same.

There is, in Sylhet, a class of out-door slaves who are Mussulmans. I believe they are low caste people who have been converted, but have retained their servile state.

Slaves are very numerous in these districts. A family of respectability will frequently have from ten to twenty-five families of slaves; and there is no family of respectability either Mahomedan or Hindoo that has not at least one family of slaves.

I should say, one-fourth of the population are slaves.

Many slaves are not required to do regular work for their masters, but only to attend at festivals.

There is generally a reciprocal regard between master and slave, and the master treats his slave with more kindness and attention than his hired servant.

In general it is considered derogatory to sell a slave; but it is done when the owner is in distress.

It is customary on the marriage of a daughter to give one or two female slaves as her attendants.

If a slave give offence it is usual to give him a slap or a blow with a shoe.

I never heard of a case of manumission ; but a master sometimes expels his vicious slave.

Slaves are married with the same ceremonies as free persons of the same class : and when the husband and wife belong to different masters it is usual for the owner of the woman to give her to the man's master,—receiving a present, which is always less than her value.

If this kind of marriage take place, without the consent of the woman's master, the offspring are all his slaves.

Sometimes female slaves are married to persons whose profession it is to go about as the husbands of slaves. These persons are called Byah Kara, and this kind of marriage is called Punwa Shadi. The offspring of this marriage are the slaves of the woman's master. The Byah Kara is generally a slave, but receives to his own use what he earns as a Byah Kara. He comes to each of his wives about once in a month or two and receives at each visit, sustenance and a present. He receives at each marriage four or five rupees.

It is not usual to let slaves to hire. But I have heard that beyond the limits of the Company's Territories in the hill country of Tipperah, Munnypore and Jentia that custom prevails.

In a case which was decided, in appeal, in the Nizamut Adawlut, in 1837, certain slaves were restored to their owner. The name of the case is Photia and others (the slaves) v. Musund Ali, Zemindar of Saragel, whose agent I was.

A nephew of mine brought an action against a slave of his and two persons, to whom the slave had clandestinely given his own daughter in marriage. The object of the suit was to recover the two female slaves. The suit was compromised.

In another case of which the circumstances were the same, the master got a decree in the Zillah Court of Tipperah and recovered his female slave.

I have been 18 years in Calcutta and only know these cases from hearsay.

THE 28TH DECEMBER, 1838.

## TEK LOLL, MOOKTEAR IN THE SUDDER DEWANNY ADAWLUT, CALCUTTA.

I was born in Behar, in the Village of Futtehpore, Purgunnah Putschroke and am owner of seven slaves whom I bought.

I am acquainted with that district and the adjoining districts.

Of Hindoo slaves there are two classes in Behar, the Kuhar and the Dhanuk which is also called Juswar-Kurmi. These are both inheritable and are transferable by sale. By the local custom of Behar, free persons whether infant or adult of these two classes, may be sold by their maternal uncles or maternal grandmothers, not by their parents.

No one would buy a free person of these classes unless the maternal grandmother or maternal uncle were present at the delivery and consenting.

The mother has a veto upon the sale but not the father.



The maternal grandmother has the prior right to sell.

She being dead or permanently absent, then the maternal uncle.

These sales take place not only in times of calamity but at all times.

Bun-Vickree is one kind of these sales, which takes place when the subject of the sale is absent from his family, and cannot be got at.

The consent of the subject is quite immaterial and is not asked.

The price is lower when the sale is Bun-Vickree : on account of the risk the buyer runs of not getting possession of the person sold.

The Kuhar and Juswar-Kurmi sometimes sell themselves to their creditors, or for the purpose of paying their creditors with the price.

Besides those who have thus become slaves from freemen, there are many who are slaves by descent. These have all descended from persons belonging to the Kuhar or Juswar-Kurmi, and who have been sold in the manner described.

These sales take place not only to Hindoos but also to Mussulmans or other persons.

When a Mussulman is the buyer and makes a convert of the slave, the slave is called Moollah Zadah.

I have known Mussulmans to buy slaves brought from other districts. But a Hindoo would not do so because he would not be sure of the slave's caste and would fear pollution. The slaves thus brought from other districts are generally children.

If a person thus sold were to refuse compliance the buyer would coerce him : and I should think the Magistrate would support the buyer in doing so.

I do not know any case of the kind of my own knowledge, but I have heard of such cases.

In case of scarcity or famine other castes sometimes give up their children to be brought up by persons in good circumstances but no price is given, and the children are not slaves though they perform services in the house.

Sales of free persons, as above described, are very common and so are sales of persons already in slavery.

The only difference between the Kahar and the Juswar-Kurmi is, that the former being of inferior caste carry palanquins which the latter do not, with this exception they are both employed in the same menial offices and in agriculture.

The price of slaves, of course, varies much according to circumstances. But the price of a young female may be from fifty to one hundred and twenty-five rupees and that of a young male about a third less. The cause of the difference is that the girl may have children which will belong to her owner.

Children of from six to eight sell for from ten to fifteen rupees : the price of females exceeding that of males in about the same proportion as above.

The Purgunnah of Puchroke contains about a lakh of people. I should think the proportion of slaves is about one-eighth. Probably the same proportion may prevail in the rest of the Zillah.

If a slave will not work he is coerced by threats, by flogging and by stopping his rations.

The usual character of slaves is obedient : but sometimes slaves are refractory.

In Agricultural labor slaves are generally mixed with free labourers and no greater quantity of labor is exacted from them. Both work the whole day with short intervals for refreshment.

VAYDIA NATH MISSAR, PUNDIT OF THE SUDDER DEWANNY  
ADAWLUT, CALCUTTA.

I am a native of Purgunnah Dharour, Zillah Tirhoot.

I am well acquainted with that Zillah, and have some knowledge of the adjoining districts of Sarun and Purneah.

The slaves, in Tirhoot, are all Kyburts, but they are subdivided into Kyburt proper, Dhanuk, Amat and Kurmi. (Kyburt in common parlance is pronounced Keecot.) Many people of these castes, however, are free.

The origin of all this slavery must be traced to self-sale or self-gift. I arrive at this conclusion by comparing the actual state of things with the doctrine of the Shasters.

By the Hindu law, a Brahmin cannot be a slave to any body,—a Khitrya or Byse might be, but I never heard of any that were.

The slaves of the several classes mentioned are nearly the same in regard to purity and are employed indifferently in in-door and out-door work.

There are no slave-castes in my country, nor does the Hindu law recognize slavery as incident to caste.

Many of the slaves, of great families, are settled on the Estates, and are not required to perform any service except attending at ceremonies and defending their master in case of need. They pay rent but less than is paid by free persons. They have however no right to any part of the produce of the land nor to any property as against their master, and if he is angry with them, he sometimes takes every thing from them.

The Rajah of Durbhunga has a great many slaves. Many free people, of the castes specified, are in the habit of applying to be put on his list of slaves; their object is to obtain the offices of Gomastahs and Tehildars.

I know of no text of Hindoo law which gives the slave a right to sustenance from his master, but all masters do maintain their old and infirm slaves; and, I think, as this is the established custom, a Court of Justice would decree maintenance to a slave, if it were refused. But I know no case, in which the question has been brought before a Court. Indeed, slaves are generally more favored than other servants.

The practice of self-sale is now frequent, the transaction is recorded by an instrument called Param Bhatarak. The price in these cases is the absolute property of the slave, and descends to his heirs; which is also the case with all property, of which the slave may have been possessed, previous to the sale.

The sale of free children by their parents, only takes place in cases of great distress, and would be invalid, in other circumstances by Hindoo law—only the castes above-mentioned sell themselves or their children.

My paternal grandfather died, leaving five sons. They divided the property, and among other things, eight families of slaves. One of my uncles died; and his slaves,—fearing that they would be shared among the other brothers, and that their families would thus be separated, fled away to Derhampore in Purneah, which is on the Estate of the Durbhunga Rajah. My eldest uncle, the head of the family, went after them to induce them to return. They agreed to do so, but the head of the family dying at that time, they did not come back. The death of this uncle, took place about 30 years ago, and since that time my other uncles, my father and my elder brother, have written occasionally to the Rajah's manager to claim the slaves. We have sent messages and they answer—“We will come.” We have never sued for them, because it would be expensive.

and the Courts do not favor the claims of masters to slaves. And another difficulty exists, in this, that we are a numerous body of kinsmen, having a joint undivided claim on several families of slaves.

Those of the slaves, who have acquired no property, say they are ready to return. But those who have made acquisitions, refuse.

It would not be considered disreputable in us, to take the acquisitions of these slaves, which by law belong to us.

I am one of an undivided family of four brothers. We have, in our household, thirteen slaves: three who descended to us, and ten whom we bought. Besides these, and besides those above-mentioned, who went away to Derhampore, there are two families, consisting together of ten or twelve individuals, who belong to us, my aunt, and my sister. They are settled on another part of the Durbhunga Rajah's Estate, but they come to us, whenever they are summoned, to attend at festivals. We do not support them.

The chastisement of a slave ought to be the same as that of a son, that is by the half ratan, or by tying him up by the hands. But it may be inferred, from the power which the Shasters recognize in the master to exact work, that he may punish the slave, who refuses to work; and it is the duty of the ruling power, to make the master and slave both perform their duties. One of our slaves ran away, and my brother applied to the Magistrate to have him restored. This took place about twenty years ago. The Magistrate issued orders to the Darogahs, but the slave escaped into the Nepal Territory. The slave afterwards, on hearing that I was established in Calcutta, came and joined my household. My brother then wrote to me, to inform me of his having run away, and to beg me to turn him away. But I kept him notwithstanding.

I do not know of any case of manumission. But I have heard of manumissions, where the slave had done something, with which the master was much pleased. When a slave saves his master's life, he is *ipso facto* manumitted according to the Hindoo law: and in such case, the slave is entitled to share in the master's property as a son.

Slaves are employed generally in menial offices, with the exception of cookery, which would be impure if performed by a slave. Poor persons who have no slaves, hire persons to do such work: but slaves are preferred by those, who can afford to purchase them, because slaves have a permanent attachment to the family.

In general, I think, it is more economical to be served by slaves, than by hired servants.

A master is, in general, more disposed to favor his slave, than a hired laborer, from whom he generally exacts the full measure of work.

A severe master might oppress his slave, in a way, which a hired servant of the same caste would not submit to.

The slave has no right to any portion of his time.

A slave who does not work regularly for his master, but is only called upon to attend at festivals, or to do other occasional service, receives, when so called upon, the same rations as a freeman and wages, but not so high as those of a free-man.

No absolute slave has a right to purchase his freedom. But sometimes, there is a stipulation for redemption, in the contract of self-sale or of the sale of a child.

I have never heard of a class of slaves, called Moollah Zada. The Hindoo slaves of Mussulmans remain Hindoos.

By the Shasters, property in slaves, (or bipeds as they are called,) is treated with the same respect, as immoveable property, and is transferred with equal formality.

Consequently, no one buys without full enquiry, and in the conveyance all the particulars are recorded. When a slave is bought of a stranger, it is usual to require that some known person should become surety, that the seller has a right to sell.

Perhaps one or two-sixteenths of the whole population of these districts, are slaves. But the great majority of the Kyburt caste are slaves. Almost all respectable families have slaves—even those who are in a state of decay.

The same rites are observed at the marriage of slaves, as of other Sudras, and the master is under a moral obligation to provide for the marriage of his slaves, as of his children. The parents of a young slave, are consulted as to the choice of a bride or bridegroom. Illegitimate children of a slave woman, are slaves of the woman's master.

When two slaves of different masters intermarry, there is usually a stipulation between the two masters, respecting the ownership of the children. Where there is no stipulation, the male children follow the father, the female the mother.

There is frequently a special stipulation respecting the ownership of the children, depending upon the expences of the marriage being all paid by one party, or some such cause.

If a free person, of either sex, marry a slave, without stipulating for freedom with the master, such person becomes a slave. But if such person stipulate for freedom, then the children are slaves or free according to their sex—I am stating the law as laid down in the Shasters, but I have heard that the practice is conformable to it, though I do not know any case of my own knowledge.

If a male slave, marry the slave of another master, without his consent, such slave may nevertheless have access to his wife, but so as not to interfere with her service, more than conjugal rights necessarily require.

The practice of Punwah Shadec is known in the districts of which I speak.

The sale of slaves is very common, but it is becoming less so, because the leaning of the Courts against slavery deters people from purchasing. The probability, that the Courts will not enforce the rights of the master, has caused the price of slaves to fall considerably.

The present average price of a young girl, is now from 25 Rupees to 40, and it used to be from 50 to 60. The price, of a young male of 18 or 20, is from 16 to 20 Rupees, and was from 30 to 40.

It would be considered oppressive to sell a slave, so as to place him beyond the reach of communication with people of his own class, or to separate families. The Courts ought to interfere to prevent such sales.

There are no slaves adscript to the soil.

I know no instance, in which slaves have been sold in execution of a decree, or for arrears of revenue, or rent: but I see nothing illegal in such a proceeding.

I am not aware that slaves are ever hired out, but the interest of a debt is sometimes paid by the services of a slave,—the slave remaining in the possession of the debtor, who continues to maintain the slave.

The mortgage of slaves is legal, but not much practiced, —not being convenient.

If a mortgaged slave die, the loss falls upon the mortgager, and he must provide another slave. But if the death be occasioned by the fault of the mortgagee, then the loss falls upon him.

Sale for the purpose of prostitution is of course illegal: because a prostitute necessarily loses caste.

THE 2D JANUARY, 1839.

**HAMID RUSSOOL, VAKEEL OF THE SUDDER DEWANNY  
ADAWLUT, CALCUTTA.**

I am a native of Behar, District of Patna, Purgunnah Sunda.

I am acquainted with other Districts of Behar, viz. Ramghur, Behar Proper, Shahabad and Tirhoot.

There are two classes of Hindoo slaves, Kuhar and Kurmi. The Kuhar are principally domestic slaves. Many of the Kurmi have separated themselves from their masters, owing to the decay of the master's family, and have established themselves as cultivators upon their own account. The right of the master to these slaves remains nevertheless, and may be asserted.

The slave generally returns to service when required. If he refuse, and a breach of the peace arise, and the case come before the Magistrate, he would, if he had no doubt about the slavery, pass an order for the delivery of the slave to the master. If he had a doubt, he would tell the master to bring his action in the Civil Court. I don't know any instance of this of my own knowledge, but I have heard of such instances.

I remember a case in Zillah Behar where one Afzul Ali, a Muslim, applied to the Magistrate, and being referred to the Civil Court, brought a regular action in the Zillah Court, against the slave (a girl) and Sulamut Ali, the person who was harbouring her. He got a decree, and the girl was restored to him.

The great majority of Kurmis are absolutely free. But as far as I know, a free Kuhar does not exist, though many have left their masters and are practically free. But these, when claimed never pretend to be Gurmia or unowned. They are sold by their owners, but never by any one else.

The sale of free children is rare: but in times of extreme distress, even Brahmins, Khitryas, and Syuds will sell their children. I have heard that this occurred, in the great famine, in the Faslî year 1177. At present only the lower classes, sell their children, when urged by distress.

The sale of high caste children, is not considered valid in law; and I have heard, that the purchasers of such children, in the great famine, returned the children, when they discovered that they were of high caste.

By strict Mahomedan law, no one can be a slave, but a Cafir taken in battle. But by popular recognition, the sale of a Mahomedan child, of the laboring classes, is permitted. The law is evaded, by framing the deed, as a contract of hire for a long period. The same form is used in the sale of a Hindoo; for in Behar, the Mahomedan forms of contract and conveyance have been generally adopted.

The offspring of a person thus sold is free. My grandfather bought a female Kuhar in this manner. She remained in our family, as a slave, till her death: but we have no right to her children. They did service in our family, and were supported by us, but they are free.

I have never known a contract of this sort, in which any mention was made of future off-spring: but I have known cases, in which men have sold both themselves and their existing off-spring by the same deed.

I have never heard, of any importation of slaves into Zillah Behar or Patna: and people do not buy slaves from unknown persons.

If a slave refuse to work, the master corrects him with a slap on the face, or a ratan. If the slave is incorrigibly obstinate or vicious, he is turned away.

This rarely happens. Slaves perform menial offices in the house, including cookery, when the master is a Mahomedan. Slaves are also employed in agriculture.

Manumission is rare, and not generally desired by the slave. But it sometimes happens, that a master anticipating from the evil disposition of his children, that they will maltreat the slaves, manumits such of them as he has a regard for.

The slaves of great people frequently appear to possess property: but I suppose, in law, it is the property of the master. I know of no case, in which the right to such property has been disputed between master and slave.

A master has no right to exact, from his slave, offices which are unsuitable to his caste: and I presume the slave would be protected, in refusing to perform such offices.

The Mahomedan master has a right, to exact the embraces of his female unmarried slave, of the same religion, but not of a Hindoo slave.

If a slave, so subjected to the embraces of her master, have a child by him, she is called um-ul-wald (the mother of offspring) and becomes free. The offspring inherit as legitimate children.

Slaves are not entitled, to any time to work for themselves.

A slave, who is separated from his master, is entitled to food and clothing, if called upon for some occasional service, and he also commonly receives a present.

I think, upon an average, that there is some economy, and certainly some comfort, in being served by slaves, rather than free people, particularly female slaves. In the country, female free servants are not to be procured. Both males and females, of the lower classes, think it derogatory to them, to take menial service; and to the females, in particular, it is disreputable.

Slaves are frequently employed in offices of trust. They are generally more trusted than free servants.

A man, who has sold himself into slavery, has no right to redeem himself without his master's consent. Nor has the parent of a child, who has been sold, any right to redeem the child.

Syuds,\* and Sheikhs, Patans and Malaks† are the only Mahomedans, who cannot be slaves according to the custom of the country.

A Mahomedan master, employs a Hindoo slave, in out-door work and does not interfere with his religion.

The proportion of slaves, in the above districts, may perhaps be about five per cent.

All respectable families, whether Hindoo or Mahomedan, have slaves.

It rarely happens, that a Hindoo slave is converted, and becomes Moollah Zada. I never saw one.

The same rites of marriage, are observed among slaves, as among free men, whether Hindoo or Mahomedan: and it is the duty of the master, to provide a spouse for his slave, and to pay the expences of the marriage.

In the absence of any special agreement, the master of the female slave, is entitled to the offspring.

So also, if the husband is a free man, and there be no special agreement.

It is not usual to make special agreements as to the distribution of the offspring. I never heard of a free woman marrying a slave.

\* The descendant of the prophet and the descendants of his companions.

† Descendants of persons who have received titles from the sovereign.

I am speaking of the slaves of Mussulman masters, whether such slaves be Mussulman or Hindoos.

• The husband of a slave woman, has no right to remove his wife from her master's household, but he is entitled to have access to her.

Slaves are generally well treated. The old and infirm are entitled, by law and justice, to support and care. I have never heard of this right being enforced by application to a court.

Cruelty to a slave does not entitle him to emancipation; but the Magistrate ought to interfere to prevent and to punish it.

The withholding of support, or the inability to give it, would authorize the Magistrate to set the slave free.

It is thought disreputable to sell slaves, but not so to buy.

The price of a Hindoo slave girl is from 30 to 100 rupees; that of a young male, from 25 to 40 rupees.

It is not usual, to sell slaves, to purchasers living at a great distance, nor to separate families.

According to usage, a slave about to be sold, is allowed, to object to the purchaser, and to choose any other, who is willing to pay the price: and the master ought to give the slave time in such a case, to find a purchaser. If however the slave cannot find one, the transaction must proceed.

• I know of no class of slaves who are adscript to the soil.

• It is not the custom to sell slaves, in execution of decrees, or for arrears of rent, and revenue.

The practice, of letting slaves to hire, or mortgaging them, does not occur in my country.

Procuresses sometimes kidnap children for the purpose of prostitution.

It would be disgraceful in a Mahomedan master, to sell a girl for that purpose. It is also contrary to Mahomedan law.

THE 2D JANUARY, 1839.

#### R. H. MYTTON, Esq., MAGISTRATE OF SYLHET.

I was three years, in Sylhet, as Magistrate and Collector.

Sylhet is under a Ryotwary Settlement and every Meerassadar has, in his family, one, two, or three slaves.

It is considered as a mark of distinction, to possess slaves: and a man's slave is the last thing he will sell.

The number of registered Meerassadars is a lakh and a quarter; but amongst them are many under-purchasers, who are of an inferior rank and station, and do not possess slaves though they call themselves Meerassadars.

I cannot say what is the number of registered Meerassadars. For these reasons it is extremely difficult to estimate, with any accuracy, the number of slaves.

It is not common to sell a slave against his own consent, nor to sell one to a person residing at a great distance.

Complaints have sometimes been made to me, by mothers, that their master was about to sell their infant children so as to separate them. I mean children of an age to require parental care. In such cases I have interfered to prevent the master from doing so. I have never found it necessary to do more than issue an order. I doubt, whether it would be legal, to enforce such an order by punishment.

I never recollect a case of the separation of husband and wife coming before me.

The greater part of the whole population is Mussulman, and so is the greater part of the slave-population.

I never heard the term Moollah-Zada.

A great many Hindoo masters have Mussulman slaves, but very few Mussulman masters have Hindoo slaves.

The greater part of the poorer classes is Mussulman, and it is, of course, these classes who sell themselves and their children in times of scarcity. They do not object to selling themselves to Hindoo masters.

The slave-population is principally employed in agriculture.

The condition of slaves differs very little from that of freemen of the same class.

I never heard of any slaves who are *adscripti glebae*.

I never heard of a case of manumission.

By law, I believe, the master is entitled to all the slave's earnings. But in practice it is very common for slaves to possess property. Some are Burkundazs receiving Government-pay to their own use. Some are holders of lands, under their masters, and pay rent.

The master can, by law, compel his female slave to marry against her consent; indeed, both slave and free children, are generally married at an age, at which they are incapable of giving consent.

Female slaves are frequently married to men, whose profession it is to go about as the husbands of slaves. The object of this arrangement is that the slave girl may remain in her master's house, and that all her children may belong to him.

These itinerant husbands receive a present at the marriage, and they are maintained, while visiting their wives, by the master.

The master is bound, by law, to maintain his old or infirm slave, and the general feeling would be strongly against the neglect of that obligation. I have never been called upon to enforce it as a Magistrate.

I think there is no importation of slaves into Sylhet; nor do I think there is any exportation to foreign countries. But certainly, and particularly in years of scarcity, there is some exportation into the adjoining Districts.

I think it would not be expedient to prevent this,—inasmuch as it alleviates the distress.

I do not think Regulation III, of 1832, applicable to such cases. Because this is not importing from one Province to another, and because, under the circumstances, under which, it takes place, it cannot, I think, be called removal for purposes of traffic.

There is also a practice of intruding slaves, principally women and children, away from their masters, carrying them away, and selling them in the adjoining districts,—especially in the Pargannah of Bickrampore, near Dacca, which is inhabited by respectable Hindoos, Bachelors and Kayets; amongst whom there is a great demand for such slaves.



Whenever a case of this kind has come before me, I have always punished it as a theft ; and; I believe, this has been the practice of my predecessors. I have had many such cases before me.

There are many persons, who are legally slaves, and who may be reclaimed by their masters, but who are practically free and living in residences of their own.

There are others, who are in states, intermediate between complete slavery and that, which I have just described.

The usual way in which a man sells himself, is by a deed, purporting to lease his services for a long term, nearly a hundred years in general. The deed is called Kharidagi-Pottah.

In India, it is common to borrow money, the borrower mortgaging his services for a short term of years.

Cases have come before me, where free female children have been sold for purposes of prostitution. I have always interfered to prevent the completion of such sales ; and, I think, I have bound over the parents in recognizances not to sell the children.

I never heard of slaves being sold in satisfaction of a decree, or for arrears of revenue or rent.

THE 12TH JANUARY, 1839.

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### DUR'B SING DAS, ORIAH MISSUL KHAUN, IN THE CALCUTTA COURT OF SUDDER DEWANNY ADALUT.

I am a native of Pergunnah Cutteya, in the Northern Division of Cuttack.

Since 1819, I have held various official situations in that Province where I remained till November, 1837,—when I attained my present appointment in the Sudder.

There are two classes of persons, in Cuttack, who generally keep domestic slaves, Mussulmans and Kaits. The latter are subdivided into,—Myntea or Oriah Kaits,—the Bengalee,—and Lalla or Western Kaits.

There are also some Rajahs and Zemindars who are Kundaits, Rajpoots and Ketryas who keep such slaves ; but no Brahmin does so.

Before the Mahratta invasion of Cuttack, the Rajah Pursuttam Deo; prohibited Brahmins from keeping slaves. I do not know the reason of this prohibition : but since that time no Brahmin keeps a domestic slave.

The Byse also never keep domestic slaves ; it is contrary to the principles of their caste.

The domestic slaves, consist of such low castes as are considered pure.

The impure castes are employed exclusively in out-door work. All classes of people who can afford it, keep this kind of slaves ; and they are constantly sold from hand to hand.

The pure castes are—  
Chasa,

The impure castes are—  
Dhobee,

Khundait,  
Gualah,  
Tanti,  
Agari,  
Bas Bania, and  
Nursala.

Chumar,  
Ghokha,  
Kyut or Kyburt,  
Raree,  
Pan,  
Kundra,  
Napit,  
Bhagti, Hari and Dome.

All kinds of slaves are constantly sold; but according to popular recognition the consent of the slave is necessary.

This custom has arisen from a proclamation issued, in 1824, by Mr. Robert Ker who was Commissioner of Cuttack.

A slave who was sold against his own consent ran away. The master used force to coerce him; he complained to the Magistrate who gave him no protection; he then appealed to the Commissioner who gave him his liberty, fined the purchaser and issued the proclamation of which I have spoken.

The proclamation declared the sale of slaves illegal.

Since that time, I think in 1829 or 30, a slave complained to Mr. Forrester, the Magistrate, who declared a deed of sale of a slave to be unlawful, fined the purchaser, awarded costs from him to the slave and referred the purchaser to the Civil Court to recover the price, he had paid, from the seller. This is the only case, I remember, since the proclamation. The effect of the proclamation has been not to put an end to sales but to prevent their taking place without the consent of the slave.

There are Mussulman slaves who are the illegitimate offspring of women of low caste, whether slaves or free women by Mussulmans.

The offspring of a Mussulman and a low caste woman has no right to inherit from his father, unless the ceremony, of marriage, have been performed between his parents.

There are also Mussulman slaves who have become so by conversion, having been bought from their parents or masters in childhood.

The origin of Hindoo slavery is, sale of free persons by themselves or their parents. People do not usually sell themselves or their children unless pressed by necessity. This kind of sale is not uncommon at the present day.

The purer classes of slaves are sometimes employed in out-door work as well as in in-door. In such cases they work separately from the impure classes, by whom they would be contaminated. If a man, of pure caste, accidentally touch one of impure caste he must purify himself by washing.

It is usual for people of impure caste, in going along the road, if they meet a man of pure caste who happens not to observe them, to give warning—saying, good Sir, I am of such and such a caste: you had better retire.

Formerly the impure castes lived in separate villages and gave way whenever they met a person of pure caste on the road. But since the country came under the Company's Government, they have become more independent.

If a slave refuse to work or otherwise misbehave, the master corrects him by beating with the hand or a cane, or by tying him up for an hour or two.

I never heard of a complaint being made by a slave, to a Magistrate, of ill treatment.

Emancipation is not uncommon when a master is much pleased with a slave. In that case, if the slave were purchased, the master gives him the deed of sale; if

there is no such deed, the master executes a Farigh Khatte or release.

No time is allowed to the slave to work on his own account ; and any thing he may acquire belongs to his master.

The marriages of slaves take place with the same rites as those of free-men of the same caste, and the expence is paid by the master. Upon the death of slaves of pure caste, the master also provides the funeral feast.

The usual practice is, for the master, to buy a husband or wife for his slave. But when a marriage takes place between the slaves of two different owners, the owners take the offspring alternately : and if the woman cease to bear, when the number of her offspring is uneven, the last child goes to one owner,—he paying half its value to the other.

When such a marriage takes place, with the consent of the woman's master, she goes to live with her husband,—rendering only occasional service to her master. If it take place without his consent, he allows the husband to have access ; but the children all belong to him,—the woman's master.

I never heard of the intermarriage of a free person with a slave.

The low castes, of which I have spoken, are in three different conditions. They are either—*first*, free, or *second*, actual slaves, or *third*, persons who having been themselves slaves, or having sprung from slaves, can never escape the stigma of slavery—though they are in the enjoyment of liberty.

Persons in this last condition, intermarry with actual slaves ; but only when they can purchase them from their masters.

I never heard of Hyakaras or Punwa Shadi.

Slaves are generally well treated: their condition is equal to that of hired labourers.

The master is bound to maintain his old or infirm slave ; and I presume the slave might obtain a decree for maintenance in the Civil Court.

The master may exact any service, which is not derogatory to his caste. It would be derogatory to the pure castes to compel them to work with the impure ; and would, therefore, be an act of oppression.

It is more economical to employ slaves than free-men both in in-doors and out of doors.

I am an owner of slaves. I have fifty.

I give an adult male slave a seer of rice ; half a chittak of salt ; half a chittak of oil ; and one quarter of a seer of dal, or a pice to buy vegetables.

I also give 2 pice a week for tobacco: 2 pice will purchase as much tobacco in Cuttack as 4 anas here.

I also allow them to cut fire wood upon my ground. The usual allowance for fire wood, when the slave is to purchase it, is half a pice a day.

I give 4 dhotis,

2 unguchas,

1 chuddar, and

1 blanket every year.

This is the usual allowance given to slaves.

They are provided with lodging.

They are trusted with the custody of money, and other valuables, in preference to hired servants.

There is no redemption in the case of self-sale, or sale of children by their parents.

There is a class of persons, who agree to serve as slaves for food. They can put an end to their servitude when they please ; but the stigma still remains. These

people differ from hired servants, in respect that, they live upon the leavings of the master's table, which degrades them to the rank of slaves.

The children of such people, if born after the servitude commenced, are slaves for ever.

Such people can acquire no property, during the continuance of the servitude—Women become slaves in this way as well as men.

The proportion of slaves to free men is as 6 to 10: a great Zemindar will sometimes have 2,000 slaves. There are many such. Junma Jay Chowdri and Baghwat Chowdri and others. I dare say there are 200 or 250 who have as many.

I have been speaking only of the Northern and Central Divisions of Cuttack. In the Southern Division, there are but few slaves, and they are seldom sold. The great Zemindars there employ freemen.

The Southern and Central Divisions are the most flourishing parts of Cuttack.

Land is better cultivated by slaves, than by freemen: for the slaves feel, that they have an interest in the land.

I attribute the present depressed state of agriculture, in North Cuttack, to the late inundations of the sea. Formerly it was as well cultivated as the other two Divisions.

The castes, to which slaves of North and Central Cuttack belong, exist in equal numbers in South Cuttack.

The price of a young male, varies from 5 to 30 rupees. That of a young female is the same.

Slaves of the Gokha caste, sell for more than other slaves: because the men are fishermen and the women manage the buying and selling and are very skilful, and their occupation is a productive one, both to the slave and the master. The Gokha is allowed to retain a large share of the produce,—making over the remainder to his master. The Gokha females never sell for less than 50 rupees. The male sells for less; and I cannot tell the reason.

Generally the pure castes, bear a higher price than the impure; because they can be employed in domestic occupations.

A boy of five or six years sells for one-fifth of the price of a young adult. The same of a girl.

Before MR. KER's proclamation, the slave might be sold to a purchaser living at any distance; and the master was not considered to act oppressively.

But even in those times, it was not usual to separate families.

There are no *adscripti glebae*.

It is common to borrow money upon a mortgage of slaves; but the slaves remain in the possession of the mortgager.

It is not common to let slaves to hire.

The old form of self-sale, was by a deed of sale: but since MR. KER's proclamation, it is done by a lease of 60, 70, or 80 years, which is understood to include children, born after the lease.

Sale for prostitution is illegal by the Shaster; and is considered immoral and disreputable,—though it takes place sometimes.

I knew a case in which a judgment creditor included slaves in the schedule of his debtor's property, for the attachment and sale of which, he moved the Court. The debtor objected, and Mr. Pigou had the slaves struck out of the schedule,—saying they were not a fit subject for sale.

# KASHI NATH KHAN, AGENT OF THE RANEES, OF THE LATE RAJAH BISHEN NATH, OF NATOR.

I am a Brahmin.

I am a native of the village of Satteen, Purgunnah Khatta, District of Rajshahi.

I am principally acquainted with the Zillah of Rajshahi; but I have likewise some knowledge of the adjoining Districts.

I possessed two slaves; one is dead, and I have now but one.

Most of the respectable people, in Rajshahi, both Hindoos and Mahomedans, have domestic slaves.

The Mahomedans have generally Mahomedan slaves.

The Hindoo slaves are, of the Kybert, Kait, Jalia, Mali, and generally of all the low castes.

There is no caste so low as to be incapable of slavery; but the lowest castes are not employed within doors.

The origin of slavery is, self-sale and sale, by parents or other relations in *loco parentis*; also of a wife by her husband. This sale does not dissolve the marriage. If the husband have access to her, the offspring will belong to the purchaser who is the owner of the soil.\*

These sales, which formerly sometimes took place, in Rajshahi, were principally sales of slaves imported from Rungpore and Mymensingh. (The sale of slaves, domiciled in Rajshahi, has always been uncommon.)

Formerly, these sales were frequent, and took place in the market.

But about twenty years ago, a person was detected in having bought a boy of ten years old and sacrificed him to the Goddess Kali. He was tried; convicted of murder; and executed. This case occurred in Rungpore, but in consequence of it, a proclamation was issued, by order of the Nizamut Adawlut, in Rajshahi and other adjoining districts,—prohibiting the sale of slaves in the market. The people supposed that the prohibition was extended to all sales, and in consequence of this understanding, though private sales still take place, yet it is no longer the custom to register them, as it was, before the proclamation in the Zillah or the Purgunnah—Cazi's Office.

Formerly, slaves were imported from Rungpore and Mymensingh by itinerant dealers. That traffic has ceased: and now when a person, in Rajshahi, wishes to buy slaves he must either go, or send, or write to those districts; and has some difficulty in finding slaves for sale.

The slaves may be about two or three-sixteenths of the whole population.

Some of the agricultural slaves are fed by their masters; but others cultivate, for themselves, land which their masters have allotted to them,—cultivating at the same time the master's land. In this case, the master supplies cattle and implements of husbandry.

Self-sale does not now occur in Rajshahi. I believe it has ceased, in consequence,—of the proclamation which I have mentioned,—and of the inclination of the Courts in favor of freedom.

A self-sold slave may be purchased in Rungpore and Mymensingh: but such a slave will probably be told that if he runaway, the Courts will not restore him to his master.

Refractory slaves are coerced by threats, and beating with the hand or a stick. But this consequence often follows, that—some other person, who wishes to seduce

\* This figurative expression has reference to a maxim of Hindoo law, according to which the female is considered as the soil, and the male as the seed.

the slave, tells him that if he complain to the Magistrate, he will be liberated—and a master, therefore, very seldom beats his slave.

There are no *adscripti glebæ*.

But if an Estate is cultivated by slaves, no one would purchase the Estate without the slaves.

There are many Estates, in Mymensingh, on which the greater part of the cultivators are slaves, and there are some such Estates in Rajshahi.

I can mention, in particular, the Estate of Lushikurpore. A portion of that Estate has been sold for arrears of Revenue; the slave cultivators were not sold with the land, and I consider them to be still the property of the old Zemindar; but practically they are free ryots, paying rent to the new Zemindar.

When slaves are sold with the land, it is usual to have separate bills of sale for the land and the slaves.

I have heard of but one instance of manumission.

The slave cannot hold any property against his master.

Slaves are married with the same rites, as free persons of the same caste.

It is the moral duty of the master, to provide for the marriage of his male and female slaves. Sometimes the master will buy a wife for his male slave; sometimes he will marry him to the daughter of a free-man, who consents to make his daughter a slave to obtain the favor of the master. The slavery of the bridegroom is not considered derogatory to the bride's family,—she being still admitted to communion with her family.

Sometimes the master will buy a husband for his female slave. In other cases, he marries her to a Byakara who visits her occasionally, she remaining in her master's house. The Byakara has generally several wives of this kind and visits them in succession. Sometimes this kind of marriage is intended only, as a screen to conceal the intimacy of the master, with his female slave.

The offspring of a Byakara, whether he be free or a slave belong to the masters of his wives respectively.

It is not usual for the husband and wife to be slaves of different masters, on account of the inconvenience: but if a slave of one master, marry the slave of another without his consent, the offspring belongs to him. If such a marriage were to take place with his consent, there would be a stipulation as to the division of the offspring.

Slaves are in general well treated. A respectable master will treat his domestic slave, as a child. Less kindness is felt for the slave, who does not live in his master's house. But he is treated in the same way as a hired laborer.

There is more satisfaction in having domestic service performed by slaves than by hired servants; because they are more trustworthy; but, I think, the expense is about the same.

The same may be said of out-door slaves.

The slave has a right to maintenance from his master, in age and sickness; and the Courts would enforce the right.

According to the Shaster, the master would be punished for ill-using his slave, but the slave would not be liberated. Now however, I believe, the Courts would liberate the slave.

In Mymensingh and Rungpore, masters let their slaves to hire,—particularly females, but not in Rajshahi. The hiring is generally for short periods, from two to six months.

There are two modes in which slaves are mortgaged: one when the mortgagee has possession of the slave whose services discharge the interest. The other when the possession remains with the mortgager and the security of the creditor depends upon the deed only.

Slaves are transferred by an absolute bill of sale.

I know of no instance, in which slaves have been sold in execution of a decree, or for arrears of rent, or Revenue.

There is no redemption in the case of self-sale, or sale by a parent.

As far as I have observed, it is not usual to separate husband and wife, or young children from their parents. But the master has certainly a right to sell his slave to whom he pleases without his consent. But the ruling power ought to restrain him in any oppressive exercise of that right.

THE 18TH JANUARY, 1839.

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HENRY RICKETTS, ESQUIRE, COMMISSIONER OF REVENUE  
AND CIRCUIT 19TH DIVISION, CUTTACK.

I have been employed in the District of Cuttack, in the Political, Judicial, Revenue and Salt Departments, since the year 1827.

Slavery prevails in all parts of Cuttack, but more particularly in the Chuckla of Budruk, in the Northern Division, and in the Chuckla of Jehazpore, in the Central Division of the District.

Slaves are kept by all classes of persons; and are employed chiefly in outdoor work.

The slaves are principally

Pans,  
Kundras,  
Chasas, and  
Gowalahs.

The Pans and Kundras are impure castes, and cannot be employed in any services by which their masters might be polluted.

There are also Moosulman slaves.

In 1829 or 30, in consequence of the prevalence of dacoity in the Chuckla of Budruk, and the impression that the slaves were chiefly concerned in those atrocities, I took a census of the slave-population, of that portion of the district, and found it to amount, to the best of my recollection, to about 11,000; and in 1831 or 32, I took a census of the whole population of Balasore, including the Chuckla of Budruk, and found it to be 500,000. The official returns, of this census, are deposited in the Magistrate's Office.

I do not know how slavery originated in Cuttack: but accessions are continually made by the self-sale of adults, and the sale of children by their parents in times of distress.

I believe, the Moosulman-slaves bear a less proportion to the free Mahomedan population, than the Hindoo-slaves bear to the free Hindoo-population.

A deed of sale is the form of document used in cases of self-sale, and the sale of children; and these writings purport to convey the parties sold, and their descendants in full property, for ever. The Civil Courts so far recognize these sales, as to admit the deeds in evidence for the purpose of deciding on the titles of parties claiming the proprietary right in the slaves, but the slaves themselves are never parties to such suits. I recollect no suit instituted by a master against a slave, or vice versa, founded on a deed of this description: and I cannot say, therefore, what the result would be; but I should not myself enforce such a deed, on the principle that slavery is not recognized by any of our Regulations.

I was for seven or eight years Magistrate of the Northern Division of Cuttack, and during that period several complaints were preferred to me by masters regarding the non-attendance of their slaves, but I never interfered to assist in coercing the latter: and I believe it to be the general practice of the Magistrates, in Cuttack, not to recognize the right of the master to punish or coerce his slave. I know not how this practice originated. I never heard of any proclamation issued by Mr. Ker, when Commissioner of Cuttack, on the subject of slavery.

I am not aware what measures masters resort to, for the purpose of enforcing the services of their slaves. My impression is, that one or two cases have occurred of slaves complaining against their masters for mal-treatment, but I have no distinct recollection of them; such complaints are exceedingly rare.

As a Magistrate, I would not recognize the relation of master and slave as justifying any act on the part of the master which would otherwise be an offence; not even an act of slight correction or restraint of the slave.

I do not know whether slaves are ever manumitted by their masters: my impression is, that slaves do occasionally purchase their liberty, but I cannot call to mind any particular instance.

The slaves do not enjoy the privilege of working during any portion of time for their own benefit: the masters have a right to their full labor.

I can give no information respecting the marriages of slaves.

The slaves are generally well treated and their condition is equal to, if not better than that of the free agricultural labourer,—particularly in a famine.

It is the usage of the country for masters, to support their slaves under all circumstances; but suits are never preferred by slaves on this account, and, I imagine, such suits would not be entertained by the Courts.

Slaves are usually maintained by a daily allowance of food, and periodical supplies of clothing; but some have lands given them to cultivate, the master receiving half the produce, or such portion of it as may be especially agreed on.

Free persons, sometimes mortgage themselves for a time, either on account of debt or for an advance of money: but I do not know for what periods such contracts are usually made, or the conditions of them,—whether the services of the self-mortgager go to the discharge of both principal and interest, or of interest only.

I believe that transfers of slaves from one owner to another are frequent, but that they are never made without the slave's consent.

I understand also that slaves are mortgaged by their masters as security for the payment of a debt, but in such cases the slaves continue in the possession of their owners.

I am not aware whether masters let their slaves to hire.

I know of no slaves *adscripti glebe*.



Children are frequently sold by their parents for the purpose of prostitution: sometimes by kidnappers. There are female slaves attached to the Temple of Juggernaut, but I do not know if to other Temples also.

I am not aware of slaves being sold by auction, in satisfaction of decrees of Court, or for realizing arrears of revenue or rent.

I know of no persons being imported into, or exported from the district of Cuttack, as slaves.

Kidnapping is certainly not common, but a case of kidnapping of a child occurred a short time ago at Cuttack; for what purpose the child was taken I know not.

I remember only to have tried one suit whilst officiating as Judge of Cuttack, in which the ownership in slaves was disputed: and I do not recollect the particulars of it.

THE 22D JANUARY, 1839.

## CONTINUATION OF THE DEPOSITION OF TEK LOLL, MOKHTAR OF THE SUDDER DEWANNY ADALUT, CALCUTTA.

Manumission is rare, but sometimes it takes place when a master has a particular cause of satisfaction with a slave.

Upon occasion of funerals, it is usual to give one or more slaves, amongst other presents, to the officiating Brahman.

In general, slaves are contented with their lot.

They can have no property as against their masters; but by his indulgence, they frequently possess property.

Their marriages and funerals are attended with the same rites as those of free people of the same caste: and the master pays the expences.

I have seven slaves.

One female slave, accompanied my family from Behar to Calcutta two years and a half ago, and is now living with us. Two, one male and one female, I bought here. The other four are left in my family-house in Behar. They consist of a lad, a man who is married to the slave of another master, an unmarried girl, and a widow, who has married a second time in the form, we call, Saggai.

I bought two of these slaves, viz. the girl, I mentioned, and the lad, from their masters.

Two sold themselves to me, viz. the widow, and the man who is married to another man's slave. He was a free-man, though married to a slave.

Of the other three, I bought one girl of 11 years old from her maternal grandmother; another girl, very young, from her maternal uncle; and a boy, aged between 4 and 5 years, from his maternal uncle.

\* I know of no case in which the price of a slave is shared between the maternal relation and the owner.

\* NOTE.—The question to which this is an answer was asked in consequence of our having observed a statement in the following words in the collection of papers entitled *Slavery in India*, p. 5.

"It seems that on the sale of a slave, who separately procures his own subsistence, only one half of the price is received by the owner, the other half going to the parents of the slave."

The girl, I bought from her grandmother, has been married since we came to Calcutta. I married her to a slave who had left his master and who followed me from Behar, and now lives in my family as a servant. He told me he was a slave; but never disclosed his master's name. I pay him wages. The marriage was performed at my expense.

I have only heard the prices of the slaves, remaining in Behar, from my brother.

The girl who was bought from her master, cost forty-one rupees;

The self-sold man twenty-six. Of the other two, I have forgotten the price.

Of those in Calcutta, the male who was bought from his maternal uncle, in Calcutta, cost seven rupees. The girl who is married to the runaway slave, cost eleven rupees. She was bought, in Behar. The unmarried girl was bought, for five rupees, in Calcutta. All the Seven, are Behar-people, of the Kuhar caste.

The maternal relations, who sold the children to me, had settled in Calcutta and were in distress: I do not know, if the children were born here or in Behar.

It is a moral duty, incumbent on the master, to provide for the marriage of his slaves.

If my male slave, marry the female slave of another, the progeny all belong to the owner of the woman.

The owner of the female, to whom my slave, in Behar, is married has assigned a house, to which my slave goes at night after his work is over. They have children who all belong to her master.

It is uncommon for slaves, of different masters, to intermarry.

It is not uncommon for a free Kuhar, to marry a slave. Even if he were to marry a free woman, the children would be under her dominion and not under his, according to the rules of the Kuhar-caste: therefore he has less reluctance to marry a slave.

If a free girl marry a slave, which often happens, the children are free as they follow her condition.

These customs belong to the Kurni as well as the Kuhar caste.

Slaves are, in general, well treated. If they live in a separate house, they have rations; if in the house of their master, they have their portion of the food which is dressed for the family. They all receive clothing,—usually two suits in the year.

The quantity of food is not fixed, but proportioned to the appetite of the slave, when he lives in the house.

But when he lives separate, and chooses to dress his own food, he receives a fixed allowance. An adult male, would receive three seers of rice in the husk, or two seers of wheat unground, and in addition, three quarters of suttu which is the meal, made from inferior grain or pulse. This is more than he can consume, and he barter the surplus for salt and other condiments. He has no allowance of fuel, but must find it for himself.

He some times can get a little tobacco out of the surplus; but it is not enough to purchase pawn and betel.

It is considered, that the slave has a right to support in sickness and age. I never knew it refused.

Extreme ill usage would not confer a right to emancipation: but the Magistrate would punish the master in that case.

If the master had no occasion for any service from the able-bodied slave, he would tell him to go and earn his own livelihood, but without relinquishing his legal rights.

I do not know of any case of a slave, being let to hire: but mortgages of slaves occur in two forms; that is to say, when the slave remains in the possession of the mortgager; and when he is transferred to the mortgagee. In this latter case, the mortgagee supports the slave, and has the benefit of his labor; which however does not, without special agreement, go to discharge the interest.

The children born during the mortgage belong, in either case, to the mortgager.

I remember a case, which occurred, in Behar, three or four years ago. A Suniasi claimed a man, named Beetut, and several others, as his hereditary slaves. The case was decided in the plaintiff's favor by the Sudder Amin; and the decision was confirmed by the Zillah Court.

I have lived eight years in Calcutta: before that time, I lived for twenty-two years in the City of Patna,—going occasionally to my family-house.

Slaves are usually transferred by a bill of sale called Puttra. There are two ways, in which the sale of slaves (whether self-sale or sale by a master) takes place; one is, when the price is settled between the parties: in the other, the price is settled by a committee of arbitrators, who fix the price after a personal examination of the slave. If the slave, about to be sold, is a pregnant woman and the future offspring sold with her, the price is greater, than it would be, if the woman were sold alone.

A Kuhar could not be required to perform the work of a sweeper; but sometimes he will do such work, if his master is ill.

There are some slaves, who live with their master's consent on the lands of other persons, and perform no service for their masters,—except attending at festivals, when they receive food.

It is more economical to have labor performed by slaves, than by free-men. Slaves shew more zeal in the service of their masters.

The females, belonging to Hindoo-families, in poor circumstances, have no objection to hire themselves as servants.

It is common, to commit the custody of valuable things, in the house, to slaves but not to employ them, in Zemindari-offices.

The sale of children is very frequent in times of scarcity. Their relations who sold them, have no right of redemption.

When a man agrees to serve, for food, he can hardly be called a slave. His children are not affected by the contract.

When a Mahomedan, buys a Hindoo slave, he does not usually make a convert of him.

Self-mortgage sometimes occurs and is subject to the same rules as the mortgages of which I have spoken. This kind of contract, does not affect the children.

I never heard of a Byakara. The transfer of slaves, is very common. But people of consideration think it derogatory to sell their slaves; and when in reduced circumstances, prefer to let their slaves go and earn their own livelihood.

It is lawful, and not disreputable, for a master to sell his slaves to purchasers, living at a distance, and to separate families. But such cases are rare.

It is usual for the master, after he has fixed the price of his slave, to allow him to select any purchaser, who is willing to give that price.

There are no *adscripti glebe*, in Behar.

Slaves have frequently been sold, in execution of decrees, by order of the Courts, in Behar, Patna and Shahabad; but I cannot tell whether this is still done.

They are not, I believe, sold for arrears of rent or revenue.

Procuresses do obtain female children for purposes of prostitution.

There are no dancing girls attached to the Temples, in Behar.

Slaves are divided among the family, like any other part of the inheritance.

THE 25TH JANUARY, 1839.

### RAM CRISHNA PUTNAIK MAHANTI; OR ORIAH KAIT.

I am a native of village Bir Mukkunda Pore, Purgunnah Sarai, near Pooree, in the Southern Division of Cuttack.

I am Mooktear by occupation.

I have lived, all my life, in Cuttack, and have only been two months in Calcutta.

I am the owner of six villages. I have no slaves of my own. My lands are cultivated by free-people.

There are slaves in Central and South Cuttack. They are the children or descendants of men of high caste, except Brahmins, and of Mussulmans, by concubines of inferior classes.

Among the lower castes, self-sale and the sale of children, in times of scarcity, are also origius of slavery.

The pure castes are—

Ghasa.

Gowala.

Khundait.

Soodra, (proper.)

Goorea, (confectioner.)

Burice, (carpenter.)

Loohar.

Bus Bunnia, (seller of spices.)

Napit.

The impure are—

Telee.

Kyburt=Raree.

Gola.

Tanti.

Rungree, (dyer.)

Chumar.

Gokha.

Khundra.

Baslee, Pan, Haree, Dom, Bagdee.

The Brahmins do not own domestic slaves, but they have slaves for out-door work.

The impure castes are employed exclusively in out-door work. The pure are employed in both out-door and in-door work.

Sales of slave are not common.

Those slaves who are the spurious kindred of their masters, are never sold. The others, not very often.

The sale is invalid without the consent of the slave. This is the local usage of the country. I have heard of a proclamation of Mr. Ker, which prohibited the

sale of slaves. The consent of the slave is necessary by the old local usage independently of the proclamation.

The spurious offspring of a Mussulman, by a woman of low caste, would not be a slave. I do not know whether he would inherit.

I never heard of any class of slaves, in Cuttack, called Moollah Zada.

There are some classes so very impure that it is necessary to wash, after accidentally coming in contact with them. If one of these, see a man of respectability coming towards him, he either gives way or gives warning that the men of good caste may avoid the pollution.

If a slave, of pure caste, is disobedient, it is usual to correct him by slaps with the hand. But the course with a slave, of impure caste, is to complain to the Darogah who will admonish him. He may also be corrected by causing another impure man to beat him.

I never heard of an instance of emancipation. The slaves do not, in general, desire it.

It sometimes happens that a master, in decayed circumstances, will tell his slave to go and earn his own livelihood. In this case, it is not usual for the master to receive any of the slave's earnings, unless the slave should be his child.

The master does not, by this proceeding, relinquish his legal rights, though sometimes the slave becomes practically free. But this does not frequently happen.

I never heard of a slave being let to hire.

No time is allowed to the slave, to work on his own account.

Slaves are married with the same rites as free people of the same caste; and their funerals are performed in the same way.

Sometimes, a master will marry two of his slaves to each other: sometimes he will purchase a husband or wife for his slave, and sometimes he will marry them to the slaves of other masters.

Free-people do not intermarry with slaves, except those people who, though not belonging to any owner, have the taint of slavery in their blood. These people marry slaves without loss of consideration.

When I speak of buying a husband or wife, I do not mean buying them from another master, for it is not usual for masters to sell their slaves. I mean the purchase of a man from himself or of a girl from her parents.

The maxim which regulates the local usage is, that the seed is more worthy than the soil in the distribution of the offspring: and, therefore, if a free-man marry my slave girl, with or without my consent, the offspring is his.

It is not usual upon the marriage of slaves, to make any special agreement respecting the ownership of the offspring.

If I consent to the marriage of my female slave with a free-man or with the slave of another master, she ceases to be my slave. In the first case, she becomes free: in the last, she becomes the slave of the husband's master.

The condition of slaves is harder than that of free labourers. Their work is harder,—their fare and clothing worse;—and they are sometimes beaten.

When I said the slaves do not desire emancipation, I mean that they look upon it as unattainable, and, therefore, do not think about it.

The slave is entitled to maintenance from his master in age and infirmity: and I think that Mr. Wilkinson, formerly Collector and Magistrate of Cuttack, enforced this right in a case which was brought before him.

It is not usual to exact the lowest offices from slaves of pure caste, but if the master insist, the slave must obey. The slaves of impure caste perform the lowest offices.

The labor of slaves is more economical than that of free labourers.

If I could obtain slaves, I should cultivate my villages by means of them, but they are not to be had; and I should also employ them for domestic purposes.

There is no redemption in the case of self-sale, or sale by parents.

The proportion of slaves (meaning by that term, all who have the stigma of slavery) to free-men is as six to ten—one part, out of the six, is in actual slavery, the other five are practically free. I am speaking only of Southern Cuttack.

Southern Cuttack is more thickly peopled and more cultivated than the other Division. The people are more industrious. This has always been the case.

The purchase of children by procuresses, for prostitution, takes place. The children are sometimes kidnapped and sometimes bought from their mothers.

I remember that Mr. Wilkinson punished a man with eight months' imprisonment for selling a child he had kidnapped.

Slaves are never sold in execution of decrees, or for arrears of rent or revenue.

There are fifty or sixty families of slaves belonging to the Temple of Juggernaut. The males of these families are not married to the females, but live with them in a state of concubinage. The number of this College of *Devadasis* or slaves of the God, is kept up by their own progeny, and no addition to their numbers from without is permitted.

There is another Temple, in Cuttack,—that of Rogonat, which has a similar establishment.

THE 29TH JANUARY, 1839.

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# (CONTINUATION.)

## EXAMINATION OF WITNESSES

*On Slavery, in India, forwarded to the Supreme Government with the second  
Report of the Law Commissioners.*

No.	Date of Examination.	Names.	Place of Birth.	Occupation.
10	5th February, 1839,	Vishna Dutt Dalla, .....	Nil Assar Parbutty, .....	Chief Priest of the Temple of the Goddess Durgah.
11	5th Ditto, „	Vaydianath Missur, .....	Tirhoot, Pergunnah Duraon,	Pundit of the Sudder Dewanny Adawlut, Calcutta.
12	8th Ditto, „	Aga Kurbullae Mahummud,	Shiraze, .....	Merchant and Ship-Owner, and Agent for Ships belonging to the Red Sea and Persian Gulph.
13	8th Ditto, „	W. C. Blacquiére, Esq. ...	Great Britain, .....	Persian Translator and Chief Interpreter to the Supreme Court, of Calcutta, and Justice of the Peace.
14	12th February, „	Hafiz Ahmud Kubir, .....	Rampore, in Rohilkund, ...	Principal of the Mahomedan College, at Calcutta.
15	12th Ditto, „	Gopal Lall Kait, .....	Village Romdaud, Purgunnah Ramnah, North Cuttack, .....	Agent of the Rajah of Burdwan.
16	12th Ditto, „	Ramcoomul Rae, .....	Nagdaon, Purgunnah Salem Oortaul, Tuppah Arrungabad, Zillah Dacca Jelal-pore, .....	Mookhtear of the Sudder Dewanny Adawlut, Calcutta.
17	12th Ditto, „	Lallah Kashipershaud, .....	Sirsua, Purgunnah Turesar,	Mookhtear of Maha Rajah Chutter Singh, Durbhanga, Tirhoot.
18	15th Ditto, „	Bissumber Ghose, .....	Village Kalisha, Purgunnah Shahabad, Zillah Burdwan, .....	Mookhtear of the Rajah of Burdwan.
19	Ditto, „	Survand Rae, .....	Khulsee, Purgunnah Sultaun Pertaub, Dacca Jelal-pore,	Mookhtear of Bhagruttee Deveye, Zemindar of Zafur Alem, of Mymensingh.
20	Ditto, „	Parinath Dobe, .....	Bhaugulpore, .....	Mookhtear of Maha Rajah Rahamut Ali Khan Bahadour, of Khurruckpoor.
21	Ditto, „	Brijnath Dass Vydia, .....	Village Mohdly, Purgunnah Chundpertab, Dacca Jelal-pore, .....	Mookhtear of Bowany Kishor Acharji, Zemindar of Purgunnah Ulasingh, Mymensingh.



<i>No.</i>	<i>Date of Examination.</i>	<i>Names.</i>	<i>Place of Birth.</i>	<i>Occupation.</i>
22	19th Ditto, „	Hurnaraya Tewary,.....	.....	Mookhtear of the Family of Bisambur Pundit, Gha-zeepore.
23	19th Ditto, „	Chunee Lall Dobe,.....	.....	Mookhtear and Zemindar of the Newab Nazim of Moorsheadabad.
24	19th Ditto, „	Abdul Bari, ..... {	Village Izzah Nugar, Chittagong, ..... {	Kazee of the City of Calcutta.
25	22nd Ditto, „	Sunkurnath Jhah, ..... {	Colgong, Zillah Bhaugulpore, .. ..... {	Priest of the Family of Khurknath, Zemindar of Colgong.
26	26th Ditto, „	Urshud Ali Khan Bahadoor,	.....	Vakeel of the Newab Nazim.
27	5th March, 1839,	Dumur Singh,.....	Purneah, ..... {	Mookhtear in the Sudder Dewanny Adawlut, Calcutta.
28	8th March, „	Jogdhyan Missur, ..... {	Benares, but of a Lahore family, ..... {	Professor of Mathematics in the Sanseris College.
29	15th March, „	Soodursun Loll,..... {	Tirahi, Purgunnah Goa in Sarun. .... {	Mookhtear in the Sudder Dewanny Adawlut, Calcutta.
30	Ditto, „	Lalla Deoke Nundun, .....	Bhojpoor, in Shahabad, .....	Mookhtear of the Rajah of Chotah Nagpore.
31	22nd Ditto, „	Sridhur Buxshee Kait, ... {	Jamalpoor, Western Birbhoom, ..... {	Agent of the Rajah of Pachet, in Jungle Mehnala.
32	30th Ditto, „	Bahadoor Reza, .....	Sylhet, ..... {	Owner of two Talooks, in Sylhet.
33	30th Ditto, „	Prawn Kishen Dutt,.....	.....	Talookdar, Sylhet.
34	17th May, „	Lalla Ramchurn Lall, ... {	Purgunnah Sherghotty, in Damghur Behar, ..... {	Agent of Maha Rajah Lutchenath Singh.
35	16th August, „	Captain Bogle,.....	.....	Commissioner of Arracan.
36	30th Novr. „	W. R. Young,.....	Great Britain, ..... {	Commissioner to enquire into the condition of the Settlements in the Straits.

## VISHNU DUTT DALLI.

I am a native of village Assur Parbutty, and by right I am chief Priest of the Temple of the Goddess Durga, under her name of *Kamkhya*, which is seven days' journey, east of Goalpara.

The tribe, of Brahmins, to which I belong, is established in Canouge.

I am the owner of ten slaves, five men, four women, and one boy.

The Kos, Kybart Kalipla and Napit, are so far pure as to be fit for in-door work in the houses of Brahmins and Kaits.

The Chundal, Dom, Hera and Kumar, can only be employed in out-door work.

There are slaves belonging to all these castes, but many of them are also free.

The origin of slavery, in Assam, is the sale of children by parents in times of scarcity. Self-sale does not take place there.

Slavery never originates, in Assam, from the mixture of castes.

If a Brahmin or a Kait were to cohabit with a free woman of low caste, the offspring would not be slaves. The father would be degraded, but might recover his purity by proper expiation.

People do not sell their slaves except when they are in distress: and by favor of the Goddess, my country is blessed with plenty; consequently there are few transfers from one master to another.

Since the establishment of the British Government, in Assam, all sales of slaves are registered at the office of the head station of each district,—as well sales of free children by their parents, as sales of slaves by one master to another.

There are many Mahomedans in Assam: some of whom are slave-owners and some are slaves.

These Mahomedan slaves sometimes belong to Hindu masters, but are only employed in out-door work.

Sometimes, Mahomedan masters have Hindu slaves. They do not convert them, and employ them only in out-door work.

I do not know the term *Moolla Zada*.

Manumission *eo nomine* is very rare: but sometimes a man who has no relations will present his slaves to a Temple, whereby they become the slaves of the God.

The slaves of the God are employed for three months in the year in attendance at the Temple, and have a right to share in the offerings during that time. During the other nine months they support themselves by their own labor.

The Rajah assigned twelve villages for the support of my Temple, which are cultivated by free ryuts paying rent to the Temple; we have only twenty or twenty-five slaves of the Goddess.

There are many Temples, in Assam, to which such slaves are attached. They are never purchased by the Temple but always presented by the pious. Their offspring are also slaves of the God.

THE 5TH FEBRUARY, 1839.

VAYDENATH MISSUR, PUNDIT OF THE SUDDER DEWANNY  
ADAWLUT, CALCUTTA.

If a man wish to adopt a son, and the adoption fail, owing to the requisite ceremonies being omitted by the adopter, or being impracticable by reason of the child's age, or having been already performed,—the child is not a slave in any case; and if he have been initiated by his natural father his filial relation to him is not dissolved.

I explain\* the passage, in the Kalika Purāna, by supposing that the word *Das* describes figuratively the condition of a child whose adoption is incomplete. I also think that Nunda Pundit in his comment, on the passage, understood the word *Das* to be used figuratively in the text.

The real condition of a child imperfectly adopted, if the imperfection result from any other cause than the child's being already initiated by his natural father, is one of degradation, and which, therefore, may be figuratively called slavery,—for the purpose of expressing contempt; but it has nothing of slavery in it but the degradation.

THE 5TH FEBRUARY, 1839.

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AGA KURBELAI MAHOMED.

I am a Native of Shiraz and have resided for the last thirty years in Hindoostan and for the last eighteen years in Calcutta.

I am a Merchant and Ship-Owner and an Agent for Ships belonging to the Red Sea and Persian Gulph.

The Ships from Judda and Muscat do not bring cargoes of slaves; but sometimes the officers of them used to have a few slaves whom they would sell in Calcutta.

For four years, this importation has entirely ceased. The cessation was occasioned by the proceedings of this Government. The Governments of Judda and Muscat hearing that this Government had prohibited the importation of slaves ordered that no slaves should be brought hither in ships belonging to the State.

The slaves imported, were inhabitants of the East Coast of Africa. Of the males imported, a large part were Eunuchs.

Since the importation has ceased, those who formerly purchased have been without any supply. Of those formerly imported many were sent up to Lucknow. The purchasers were principally respectable Mahomedans.

I am the owner of seven. They are all Eunuchs. I imported them myself from Judda.

\* This is an answer to a question relating to the following passage of the Kalika Purāna, cited in the Duttaka Minumān, of Nanda Pundit, (Sec. IV. § 22) "The ceremony of tonsure and other rites (Uhadāya) of initiation being indeed performed, under his own family name, sons given, and the rest may be considered as issue: else they are termed slaves."

I have heard that a Hubshe would sell, in Calcutta, for two hundred rupees if emasculated; for one hundred and fifty if entire. A Mobazi slave would sell for one hundred rupees. They are never Eunuchs.

At Lucknow, a Eunuch would sell as high as a thousand rupees. An entire Hubshe would not fetch above three hundred.

THE 8TH FEBRUARY, 1839.

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WILLIAM COATES BLAQUIÈRE, ESQUIRE, PERSIAN TRANSLATOR  
AND CHIEF INTERPRETER TO THE SUPREME COURT OF  
CALCUTTA AND A JUSTICE OF THE PEACE.

I should think that very few slaves, if any, are imported into Calcutta since the increased vigilance of the Custom House Officers. This increase of vigilance commenced about two years ago when the establishment of the Custom House was re-organized.

Before that time, there was certainly a considerable importation not however immediately before, for the vigilance of the Magistrates had in a great degree suppressed it.

Before that time the importation was very great of Hubshia, that is to say, Abyssinians brought by Arab merchants from the Red Sea.

These Hubshis were usually carried up the country to Lucknow and other places. Some, however, remained in Calcutta. These slaves were of both sexes, but the females preponderated. Some of them were adults and some children. Some of them were eunuchs. I think they were bought exclusively by Mussulmans. I believe that they were generally bought on the East Coast of Africa from their parents or from slave owners. They were used only as domestic slaves by the purchasers in this country. They were always circumcised and made Mussulmans when they arrived here.

I remember that in consequence of the correspondence between the Government and the Magistracy, an Extract from 51st Geo. 3 Cap. 25 was communicated to all Arab Merchants and persons connected with Arab shipping in Calcutta. I attribute to this, the diminution of the trade, in slaves, which I before mentioned.

The interruption of the slave-trade did not occasion any demonstration of discontent among the former purchasers.

The majority of the Mahomedan, Portuguese, Armenian, Parsee and Jew inhabitants, of Calcutta, possess slaves.

The motive for keeping slaves is, no doubt, that it is cheaper to do so than to hire servants.

In the year 1834, a Native lady, calling herself a relative of General Martin, came down from Lucknow upon her own affairs. In consequence of the inundation that had taken place, there were at that time, a great many children for sale at the

price of from one to four rupees. These were sold, some by their parents, and others by persons who went into the parts, which had been inundated, to the south of Calcutta, for the purpose of purchasing or kidnapping them. The lady, I have mentioned, purchased twenty-four or twenty-five of these children and had embarked them in her boats for the purpose of carrying them to Lucknow. Information of this transaction was laid before me. I sent my officers to take possession of the children. They were all Mahomedans. Most of them had been converted to Islamism by their mistress. They were from seven to fourteen years of age. Three of them were boys. Upon the seizure of the children, the mistress remonstrated with me through her attornies and threatened me with an action. No proceedings however were taken against me. The female children were placed partly at Mrs. Wilson's and partly at the Kidderpore Ladies' Asylum and a few at other schools. The boys were made over to respectable Portuguese Christian house-keepers who promised to take charge of them. I examined the children, when neither their mistress nor any person on her behalf was present. They all expressed reluctance at being taken from her, and refused to be placed under the care of Christians,—declaring that they were Mahomedans. They were gradually prevailed upon to go to the several institutions where they are now. Three were persuaded, in the first instance, who told the others that they were well treated which induced them to follow. Six or seven months elapsed before they were all disposed of in this way. During this time, the girls were placed in a place adjacent to the female lock-up-house, hired for the purpose, under the care of female attendants also hired for the purpose. The boys were allowed to run about the Police-Office until they were placed. All the children were fed and clothed at the expence of Government during this period.

After the inundation, of which I have spoken, children were commonly hawked about the streets of Calcutta and the neighbourhood. Whenever information, of this, was laid before the Magistrates, we interfered, took the children away, and placed them with respectable house-holders. Constant applications were made to the Magistrates for these children; and they were made over to the applicants when respectable, on verbal agreements.

It has always been my practice to interfere, when I have heard that children or women have been kiduapped in the Mofussil, (sometimes from as far as Moorshedabad,) and brought into Calcutta for sale.

The number of those whom, after enquiry, I have thought fit to release and restore to their parents, or place with respectable house-keepers, I should think must amount to six or seven hundred. I have been a Magistrate since the year 1800.

The greater part of these were girls about to be sold for purposes of prostitution.

Until the re-organization of the Police, in 1831, the branch of Police to which these proceedings belong, was under my sole charge.

I believe, these sales, for purposes of prostitution, still take place very frequently. A case of the kind was brought to my knowledge about six months ago. I liberated the two women who had been brought, to Calcutta, to be sold, and restored them to their families.

The houses of bawds, in Calcutta, swarm with women who have been enveigled from their families and prostituted against their will.

The Hindu families, in Calcutta, are served by free people, who either receive wages, or merely food, clothing and lodging.

In ordinary times, dealers go from Calcutta into Sylhet, Dacca and Mymensing, and there purchase Hindu and Mussulman boys and girls, whom they sell to Mussulmen of Calcutta as domestic slaves, the prices varying from twenty to thirty rupees. The Hindu children are converted to Islamism. I do not know how many are thus imported annually. I should think, not many.

THE 8TH FEBRUARY, 1839.

### HAFIZ AHMUD KUBEER, PRINCIPAL OF THE MAHOMEDAN COLLEGE, AT CALCUTTA.

I am a Native of the Town of Rampore, in Rohileund. I am fifty-seven years old, and have resided for the last thirty years, at Calcutta.

I am acquainted with the Rampore-Jaghire, and with the districts of Bareilly and Moradabad.

Rohileund is inhabited chiefly by Mahomedans, the descendants of the Afghan settlers.

Slaves, both Hindus and Mahomedans, are numerous in Rampore and the two districts above-mentioned.

The Hindu slaves are—Brahmins, Rajpoots, Kurmees, Chumars and Kolees. The three first being pure castes, the two last impure.

Slaves of all the above castes may be kept by all classes of persons.

Both Hindus and Mahomedans become slaves by being sold, in childhood, by their parents under the pressure of want. In times of general scarcity, the price of a child is three or four rupees. But at other times, in individual cases of necessity, from twenty to thirty rupees.

The sale of Brahmin and Rajpoot children is not frequent.

Hindu children, purchased by Mussulmans, become Mussulmans.

Many children are purchased by inhabitants of towns: but persons of respectability, in the country, likewise buy them, but not from their own villages, as it would be difficult to keep them from running to their home.

The males, whilst young, are employed as domestic servants; but from those of pure caste no services are required by which they would be polluted; as the pollution could be communicated to the masters. When they grow up they are employed chiefly in agriculture, their masters being then averse to their continuing about the house.

The female slaves are always occupied in the house, and are never made to work in the fields.

When the slaves attain the age of about forty, their owners continue to maintain them; but they relax in their demand of service from them. After that period also, their owners do not insist on their remaining with them, and they seek employment where they please.

The children of persons thus sold into slavery are free: the masters of their parents cannot sell them, and have no right of dominion over them; and they are at liberty to seek their own livelihood.

The self-sale of adults is not known.

There are persons, both Hindus and Mahomedans, in those parts who resort to the hill countries of Kumaon and Gurhwal, for the purpose of purchasing Hindu children and adults, from their parents and relatives, whom they dispose of as slaves in Rampore, and the districts of Bareilly and Moradabad, and also at Lucknow. These traders are called "*Burdeh Furoshes*," (slave-sellers) and this traffic was very considerable before the British Rule. It is still carried on, but clandestinely, and only to a very small extent. The price obtained for males and females, both children and adults, so sold, used formerly to be from ten to twenty rupees each, but it has now risen to twenty and thirty rupees. The children of these slaves are likewise free.

Prisoners, taken in war by the first Afghan settlers in their fights with their Hindu neighbours, were made slaves. Their descendants are still numerous, but are not slaves any more than the children of the other slaves above described.

The slave-population bears a very small proportion to the free. It may be  $\frac{1}{100}$ th of the whole.

Only persons of respectability, who can afford it, keep slaves. The cultivation is carried on by free ryots, but a Zemindar who keeps one or two slaves for domestic purposes, will employ them likewise in the fields.

The masters enforce the services of their slaves by beating them either with a ratan or a staff, this depending on the disposition of the masters. The arms and legs of the slaves are sometimes broken by the violence of the blows inflicted. They confine slaves, attempting to abscond, by tying them with a string or putting fetters, light or heavy, on their legs, in the manner practised with convicts in the public jails.

The Afghans are a choleric race, and they beat their free-servants to the same extent as their slaves; but they do not confine them.

The complaints of free-servants, for such assaults, have always been attended to by the public authorities; but those of the slaves were not so formerly, and I doubt if they would be now.

The better kind of masters discharge their slaves when they become troublesome through misconduct, or when correction has no effect upon them.

Slaves are not worked harder than free-servants, and the labor of the former is very little cheaper than that of the latter; whilst it has this disadvantage that a slave cannot be turned off at pleasure.

No difficulty is experienced in obtaining free female domestic servants. These are called "Asseels."

The slaves are fed from the family-meals, and they are provided with two or three suits of clothes in the year. They also receive occasionally a few pice, and rich masters will give them one or two rupees per month, besides food and clothing.

An old or infirm slave has a right to maintenance; which, indeed, is never withheld.

Manumission seldom takes place. Some masters, as above stated, discharge their slaves when they become troublesome through misbehaviour, and sometimes slaves are manumitted in reward for special good conduct.

As long as they continue strictly slaves they have no opportunity of acquiring property for themselves; but, as I have before explained, if on reaching the age of forty, they think they can better themselves, by seeking other employment, they do so. They then separate from their masters, and work as free persons, or if they stay with their masters their services, being less rigorously exacted, they have time to work for themselves, and their masters do not interfere with their gains in this way.

The marriages of slaves are performed with the same ceremonies as those of free persons of the same class. The expenses, both of marriages and funeral ceremonies, are defrayed by the master.

When practicable, a master selects a wife, for his male slaves, from amongst his female slaves. If a suitable match is not to be found in this manner, he marries him to the female slave of a neighbour, so as to occasion no interruption of their services to their respective owners; whose houses, the slaves so married, mutually frequent: or he obtains the daughter of a free person in marriage for his slave, in which case the wife resides in the house of her husband's master, and serves him in consideration of maintenance, but does not become his slave. So likewise a female slave is sometimes married to the son of a free person, in which case the husband resides at the house of his wife's master, and serves him for maintenance, but continues free.

The offspring of a male and female slave, both the property of the same master, remain in the house of the master during their childhood, and it may be afterwards also,—and are maintained by and serve him: but when they attain majority, they are free to go where they please, and the master cannot prevent them.

If the father and mother belong to different masters, the children continue with the mother, and serve and are maintained by her master, while young; on becoming adult, they are at liberty to seek their own livelihood.

If the father be a free person and the mother a slave, the children, whilst young, remain in like manner in the house of the master; and so also if the mother be free and the father a slave.

My father had nine or ten slaves, two of whom were males. He purchased them from their parents and from "Burdeh Furoshes." Three of the females volunteered to accompany me to Calcutta, where they died. Of the other slaves, one remained with my brother, one with my sister, and the rest with others of my relations.

None of the females had children except one, who was married in the *Nikah* form to my father, by whom she had a son. This son is now living with my younger brother.

Slaves are differently treated; some are ill, some are well used. They are frequently employed in offices of trust. If maltreated, they will abscond; but ill-usage gives no claim to emancipation.

They are very seldom sold. Such transfers are considered very disreputable, and only take place, when the masters are in distress, or the slaves give trouble by their misconduct.

There is no absolute restriction on such sales; but a master who thus disposed of his slave would be called a "Burdeh Furosh."

A slave has no right to select his purchaser; but according to *Huddees* (Tradition) a master cannot sell his slaves so as to separate the husband from the wife, or children of tender age from the mother.

I do not know what the Hindu custom is, on this point.

A master who is reduced in circumstances, generally sets his slave at liberty; and a slave so manumitted cannot be reclaimed by his master. Slaves have been known to maintain their masters when reduced to poverty.

A deed of sale is the form of document used in transfers of slaves, by sale from one master to another; and in sales of free children into slavery by their parents. Children so sold are not redeemable.

It is not the custom to let to hire or to mortgage slaves.

There are no slaves *adscripti glebæ*.



It is a frequent practice for persons, in distress, to serve a master in consideration of being maintained by him; but not for a fixed term; and such persons quit their masters when they please.

Slaves are not sold in satisfaction of decrees, or to realize arrears of revenue or rent.

It is a common practice for Mahomedan masters to cohabit with their female slaves: the offspring of such connections are free. Sometimes the masters are married to their female slaves in the Nikah-form.

The greater part of the prostitutes, both Mahomedan and Hindu, purchase children from their parents and from the "Burdeh Furoshes;" so that almost all the prostitutes, in that part of the country, are slaves.

THE 12TH FEBRUARY, 1839.

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### GOPAL LALL KAIET.

I was born in the village Gourdaud, Pergunnah Rumna, Division of Balasore, or North Cuttack. I am one of the agents of the Rajah of Burdwan. It is thirty years since I left home to seek employment, but I have been there,—occasionally visiting my family.

Fifty years ago, our family possessed more than twenty families of slaves. About 1792, a great famine occurred in my country, and in consequence of that, many families which possessed slaves could no longer support them and the slaves become practically free. That was the case with our family. Persons of those slave-families, who formerly belonged to us, are now in our service as free-men receiving wages.

A great many of the poor perished in the famine: none sold themselves or their children into slavery in my country; for, in consequence of the distress, there were no purchasers. But many went away into other districts; and I cannot say what became of them.

The classes, to which slaves in my country belong, are, some pure, and some impure. The pure are Chasas and Gwalahs. The impure are Dhobees, Pans, and others.

There are no persons, in my Pergunnah, in a state of actual slavery. Though many are slaves *de jure*. The causes are, the famine I have mentioned,—and also that since the Company assumed the Government, all the old families have fallen into decay.

Those, who have risen from poverty into affluence, have not purchased slaves; because they think them saucy and faithless; and moreover there is an impression among the people, that the sale of slaves is prohibited. I never saw the proclamation prohibiting it. But I have heard of such a proclamation.

It is true, that a long time has elapsed, since I lived in North Cuttack, but I have visited it every now and then. It is only distant eight days' journey, and I am in correspondence with friends there, and I can take upon myself to say that there is no sale of slaves in my part of the District. I am told also, that in other parts of Cuttack, masters have generally lost all practical dominion over their slaves.

THE 12TH FEBRUARY, 1839.

RAM COMUL RAI, MOOKTEAR IN THE SUDDER DEWANY  
ADAWLUT, CALCUTTA.

I am of the Vydia caste. My native village is Nowgaon, Purgunnah Salim Pertaub, Tuppah Aurungabad, in the Zillah of Dacca Julalpoore.

I am one of an undivided family, owning a small Estate.

There was an hereditary slave in our family. When he was married, our family placed him in a separate house, on a part of our Estate. He was advanced in years and the father of a family, as far back as I can recollect. One son of his only remains. He supports himself by cultivating the land which he holds from us. He pays no rent, and renders occasional services to us at ceremonies.

The majority of slaves, in my neighbourhood, are Kaiet. Some few are Napits and Gwalas.

Most of the respectable people possess domestic slaves. But agricultural labor is universally performed by hired laborers.

The origin of slavery, existing in my country, is self-sale or sale by parents: and sometimes a man becomes a slave for the sake of marrying a slave girl.

The Mussulmans have domestic slaves: but I am not familiar with their concerns.

Slaves are occasionally sold from one master to another; but this is considered disreputable.

We could, if we chose, bring back to our actual service the slave I have mentioned; but he is not a person who would be useful. It frequently happens, however, that persons in his condition, if they have useful qualities, are brought back to actual slavery.

Slaves are occasionally beaten by their masters; but only in the same way in which, hired servants are beaten.

Manumission occasionally takes place, and sometimes the master dismisses his slave without relinquishing his legal rights. But it seldom happens that a slave, so dismissed, can ever be again reduced to actual slavery.

Slaves are married with the same rites as freemen; and the master generally provides a spouse for his slave.

If I allow my slave girl to marry any one but a slave of my own, my property in her is *ipso facto* extinguished. And even if my female slave marry, without my consent, though such a proceeding is an injury to me, yet my property in her ceases.

The master is bound to support his slave in sickness and old age, and the condition of slaves is, in general, very comfortable. Frequently a clever slave will become the manager of the family-affairs.

THE 12TH FEBRUARY, 1839.

## LALA KASHEE PARSHADH.

I am a native of the village Suresur, Pergunnah Suresur, in the District of Tirhoot.

When ten or eleven years old, I went to Benares for my education, and remained there ten years. I then resided for two years in my native village, after which I came to Calcutta where I have since continued, with the exception of one year's intermediate residence at my own village.

I am a Mooktar of Maha Rajah Chutter Singh, of Durbunga, in Tirhoot; and am acquainted with that District.

Slavery, both of Hindoos and Mahomedans, prevails there: but the Mussulman slaves are few.

The Hindoo slaves are principally—Kurmecs, Amuls and Kewuts. These are pure castes. There may be slaves of impure castes, but these must be rare, as they are useless for domestic purposes.

All persons of the above three castes are not slaves. There is no tradition of the free persons of those castes having ever been slaves.

Slavery has originated by free persons selling themselves or their children in times of necessity.

The slaves are employed both in and out-door work, including field labor—according as their services are required.

When the slaves, belonging to one master, have increased beyond his wants, the superfluous ones are permitted to go out to service, or are settled on lands, and so left to maintain themselves; but the proprietary right still remains in the master, and they render him occasional service, at marriages or other festivals,—receiving rations during the time of their attendance.

The Rajah of Durbunga has many slaves belonging to his household. Some are in charge of the house stores. Others of his slaves, farm portions of his Estate, or are employed as collectors of his rents; and some of the members of their families are settled as cultivators, with a view to their maintenance.\* The Rajah has no register of his slaves.

Old and infirm slaves are always supported by their masters. I cannot say whether the Courts would decree maintenance to them in case of its being withheld.

The slaves are well used. If mal-treated, they abscond.

The form of document used in cases of self-sale or of the sale of children by their parents, is either a deed of sale or a lease for sixty years; this period having been adopted from a notion that it was a term fixed by the Regulations. In cases of self-sale, the price given is the property of the slave.

I have no slaves with me here; but I and my uncle have two male slaves, Kurmees, in joint property at our family-house. We purchased them when children from free parents. I don't know for how much.

If a slave abscond, his master brings him back, and endeavors by remonstrance and kind treatment to retain him: but he is never bound. That mode of restraint is used only for cattle. Impertinence or laziness is punished with slaps, or at most with a kick. Continued misbehaviour ends in the slaves being turned away.

I am not aware of any civil or criminal case respecting slaves having been decided in the Courts in Tirhoot. But one occurred, in the Zillah Court of Behar, in

\* This was an answer to a question put to the witness, with reference to the evidence of Vaydiauath Missur on this point.

which a master obtained a decree for the right of property in a slave. The slave preferred a petition of appeal to the Sudder Dewanny Adawlut, but it was rejected.

If a slave abscond and take service with a Zemindar, the latter will give him upon the master's claiming him, and paying the expenses which may have been incurred for the slave's subsistence.

Manumission is never granted. But when a master is no longer able to maintain his slaves, they quit him with or without his consent. There are a great many who have thus obtained their freedom.

The families of free and slave Kurmees intermarry,—slavery not being regarded as a degradation as respects that caste.

A master would not require from his slave any work, which would affect his caste, because any impurity, contracted by the slave, would affect his usefulness to his master: but during a master's illness, the slave would perform the lowest offices for him.

On the score of economy, I do not think there is any difference between slave and free labor, but in some places free servants, either male or female, are not procurable; though there is nothing disreputable in the condition of a free female servant.

The slave works more willingly and, therefore, does more than a free laborer; because he regards his own interests as identical with his master's.

In strict law, the property of the slave belongs to his master, but according to usage the slave enjoys any property which he may acquire by working for others at times when his master does not require his services.

Persons selling themselves, into slavery, have no right of redeeming themselves; nor can parents redeem their children whom they have sold as slaves.

In Tirhoot, Mahomedans do not keep Hindu slaves, nor Hindoos, Mahomedan slaves, but Mahomedans have Mahomedan slaves. These are of the lower classes. Joolahas and others who have sold themselves, or have been sold when children, by their parents.

I am not aware of any importation of slaves from Nepaul or elsewhere: or that children are kidnapped for the purpose of being disposed of as slaves. Persons do not buy slaves, of whose previous condition they know nothing.

It is not a general practice to keep slaves. Some persons of respectability keep them, some do not: even people of distinction sometimes have no slaves. In my own Purgunnah, two-sixteenths of the population may be slaves, but in other Purgunnahs the proportion of the slave-population is greater. Speaking from what I have heard from others, I should say there are more free persons than slaves of the Kurmi, Amat and Kewat castes.

Slaves are married with the same rites as free persons of the same caste. The expenses of marriage and funeral ceremonies are generally defrayed by the slaves, if they can afford it; if not, by the master, who is under a moral obligation to provide for the marriage of his slaves.

The master usually consults the wishes of his male slave respecting his marriage. Either he marries him to a female slave of his own,—in which case the offspring belong to him,—or he marries him to the female slave of a relation,—in which case the two masters divide the offspring between them; and should the family not consist of an even number of children, either the child in excess of the even number performs services for both masters, or it is valued, and one master retains the child,—paying half its value to the other master.

The two male slaves belonging to my uncle and myself were married to two female slaves belonging to some of our relations. They had children, but the children died very young, and before any division could be made of them.

When the male slave of one master is married to the female slave of another master, the woman resides with her husband and performs service both for his master and her own; but her husband's master has no right to her services. She is usually supported by her own master; but if she work also for her husband's master she is supported partly by one and partly by the other master.

If a male slave is married to a free girl, the wife does not become a slave. The female offspring of such a marriage are free, but the male offspring are the property of the husband's owner. If, as sometimes happens, a freeman marry a female slave, he continues free, and the children are divided; but the father takes only one share, and the master of the mother receives two shares.

The distribution, of the offspring, is not affected by the circumstance of the marriage of a slave having taken place without the consent of the master. In what I have said respecting the offspring, I have stated the custom of my own Purgunnah. But different customs prevail in different places in this respect; and I cannot say what is the practice elsewhere. The illegitimate children of a female slave belong to her master. The Punwah Shadee is not known in that part of the country.

The sale of slaves, by their masters, never takes place except when the latter are reduced to great distress. Such sales of "human\* flesh" are considered very "discreditable." The prices, obtained by such sales, vary much according to circumstances, ranging between forty and one hundred rupees.

I am not aware that slaves are ever sold so as to separate husbands from wives, or young children from their parents, or to be sent away from their country, or to a distance from their homes. Nor would a master sell a slave to a person he did not wish to serve. The master would consult the inclination of his slave in such a case.

There are no slaves *adscripti glebæ*.

Slaves are not sold in satisfaction of decrees of Court or for the realization of arrears of revenue or rent.

It is not the custom,—to let to hire or to mortgage slaves.

Procuresses, I am informed, purchase children for the purpose of prostitution.

THE 12TH FEBRUARY, 1839.

## BISUMBER GHOSE, MOOKTAR OF THE RAJAH OF BURDWAN.

I am a native of village Kalesa, Purgunnah Shahabad, Zillah Burdwan.

I left my home, in 1820, in search of employment, but I visit it every year.

There is no sale of slaves in my country now, nor do I see any slaves, in respectable families.

I have heard, as a matter of tradition, that in the great famine in 1769-70, children were sold into slavery by their parents.

\* The expression used by the witness.

I am not acquainted with the habits of the Aymadars, who are, in general, Mussulmans, and there are none living near my village.

In the great famine, people were driven by distress to do and eat what they ought not to have done and eaten.

I know of no case in the Courts of that District relating to slavery.

THE 15TH FEBRUARY, 1839.

**SARVANAND RAI, MOOKTAR OF BAGORUTTI DURYA, ZAMINDAR  
OF ZAFFAR SHAHI AND MYMENSING.**

I am a Kaict.

I am a native of village Khulsee, Purgunnah Sultan Pertaub, District Dacca Julalpoore.

I have resided in Calcutta, for about ten years; but I have frequently been to the estate of my employer during that time, and have taken an active part in the management of the Zamindary affairs.

My mistress is the owner of fourteen hundred families of slaves, settled upon her estate at different distances from her mansion.

They belong to the following caste—Sudra proper, Kermar or Goldsmith, Kumar or Potter, Gwala, Tali and Bagirdar, which is a Mussulman caste.

The domestic slaves of my mistress who are included in the fourteen hundred families, I have mentioned, are four hundred and fifty in number. Of whom about two hundred are females.

These domestic slaves belong to—Sudra proper, Kurmar and Gwala castes, which are pure castes.

Of the domestic slaves, twenty-five or thirty are the peculiar attendants, on my mistress's person. They receive rations and clothes. The remainder have land allotted to them, to cultivate for their support and receive also an allowance of about two puns of courics per diem and fire wood.

Some Bagirdars, male and female, are included in the four hundred domestic slaves, and do the work of Porter and Sweepers.

The other slaves cultivate land which my mistress has assigned to them, for their maintenance and attend at festivals. They do no agricultural work for her. All that is done by free ryuts, except that the Bagirdars are employed in making roads on the estate.

Some of the slave, families, have been four hundred or five hundred years, on the estate. No purchases of slaves have been made since the time of my mistress's late husband's father. He purchased some.

The origin of all this slavery, must be traced to self-sale and sale by parents.

All the great Zamindars of Mymensing and the neighbouring Districts have slaves, in proportion to their wealth, settled on their estates in the same way.

The condition of these slaves is so easy that punishment is scarcely ever required, but when it is, they are scolded or receive slaps.

Since the death of my mistress's husband, the number of slaves has, I think, diminished a little, which I attribute to the ravages of Cholera.

Manumission sometimes takes place when a slave does any thing very gratifying to the master. I remember, my mistress's husband manumitted a slave who had saved him from injury by the falling of a Punkah.

The physical condition of the manumitted slave was not perhaps improved, but his condition was elevated. The Zamindar appointed him to be Putwarry on the estate and he also became a ryut on it.

In strict law, whatever these slaves earn is the property of my mistress, but she never interferes with their earnings, and some of them have considerable property, sometimes as much as one thousand two hundred rupees.

The slaves are married with the same rites as free people. When one of them wishes to be married, he presents a petition to the Zamindar (which must be done in all cases where religious rites are to be performed) and if she consent, she contributes to the expenses of the marriage more or less according to her estimation of the parties. The Zamindar does not permit her female slaves to be married, to the slaves of other masters.

In Mymensing and the neighbouring Districts even those who live upon small salaries, such as writers and accountants, have generally five or six slaves.

THE 15TH FEBRUARY, 1839.

PARISNATH DOOBE, MOOKTAR OF MAHA RAJAH RUHMUT  
ULLE KHAN BAHADOOR, OF KURRUCKPORE.

I am a native of the Town of Bhaugulpore, in the District of that name.

When I was about thirty years old, I went to Moorsshedabad, where I attended the Court of Appeal for ten years as a Mooktar, visiting my house during the vacations. For the last twelve years I have resided constantly in Calcutta.

I am well acquainted with the Zillah of Bhaugulpore.

The slaves in Bhaugulpore are principally Kurmis, vulgarly called Dhanuks, a pure caste; some of the Kuhar caste are also slaves, but they are considered impure in this district.

The slaves of these two classes are employed indifferently in in-door and out-door work, including field labor; but the superior castes cannot receive water from the Kuhar.

There is a tradition that all persons of these two castes were formerly slaves. But in consequence of the death of the masters without heirs, particularly in times of general distress, such as in the Famine of 1170 Fuslee 1762-3 A. D., when whole families perished, many have become free. At the present day the greater part of the Kuhar caste are free; but most of the Kurmis continue slaves.

The origin of this slavery is,—*first*, self-sale, for the purpose of discharging a debt or in consideration of an advance of money in any case of necessity,—*second*, sale of children by their parents, or other natural guardians under similar circumstances.

It is true that all classes are liable to want; but it never was known in my district that persons of any other caste than the two above-mentioned, either sold themselves, or were sold as slaves.

These slaves are kept by Brahmins, Rajpoots, Byse and Kaits; but not by Mussulmans. All Hindus of the above classes, keep slaves who can afford to do so; and that is the case with the greater number. To possess slaves, is a mark of respectability. The higher classes, however, have not more than five or six, the generality have two or three.

The slaves never multiply beyond the wants of the master. The women bear only three or four children each, and as some of these die, no eventual encrease of the slave family takes place.

According both to law and custom, the aged or infirm slave has a right to maintenance from his master, and it is never withheld.

Whilst I was in the district, the two descriptions of sale above-mentioned were of frequent occurrence, and I am informed by persons coming from that quarter, that they are so still.

These transactions are recorded by an absolute deed of sale called "Purum Bhattarck." In cases of self-sale, the seller disposes of himself and his future offspring, generation after generation, in full property to the purchaser: but if he have children at the time of sale, they must be specified in the instrument, if intended to be conveyed by it. The price is the absolute property of the slave: such also, is any property, the slave may have been possessed of, previous to the sale.

If a slave is careless, and spoils or breaks any thing, the master takes the work out of his hands and keeps him unemployed for a time. This the slaves feels as a disgrace and amends. Some masters slap their slaves; but I never heard of one beating his slave with a ratan, or binding him with a string, if he attempted to abscond. The masters in fact, feel the same affection for their slaves as for their own children. If a slave runaway, the principal inhabitant of the place, to which he has fled, will persuade him to return to his master on the latter appearing, and proving his title: but no violence would be used to compel him to do so.

If a slave abscond two or three times, I suppose the master would sell him. I dont know if the Magistrate would interfere to restore a runaway slave.

I never heard of a slave being manumitted. If a master is reduced to want, the slave maintains both himself and his master by his labor: and this is a principal inducement to purchase slave.

Ill usage confers no title to emancipation.

Slave-service is more economical, than that of free servants. The former being fed with the leavings of the family meal, and receiving the necessary clothing: whereas the latter must have their regular wages. Slaves moreover are greatly preferred, because they work more willingly and are more trust-worthy, and the privacy of the family is thereby better maintained.

Free domestic servants are to be had; but they are less confided in. Married women cannot be spared from the management of their own families, to take service with others: but widows are so employed, and such service is not considered disreputable. This free service, however, is confined chiefly to towns, and seldom takes place in the country.

The same quantity of work is required from a free servant as from a slave.

A slave has no right to any portion of his own time.

I am not familiar with the habits of the Mahomedans, and cannot say if they have slaves or not. If they have, I conclude they are Mussulmans, as I am certain they have no Hindu slaves.



Slaves do not acquire property. Things given them by their masters are, strictly speaking, the only property they can hold as against their masters: but the master would not deprive a slave of any thing given him by another person.

The same rites are observed, on the marriage and death of a slave, as of a free-man of the same caste; the expenses of which are defrayed by the master. The marriage of a slave costs ten, fifteen, twenty or twenty-five Rupees, according to circumstances. It is incumbent on the master, to provide for the suitable marriage of his slave, and in performing that duty, he consults the wishes both of the parents and relatives of the slave.

A master prefers that his own slaves should intermarry, the children in that case belong to him.

If slaves of two different masters intermarry, the female remains at her owner's house, and the husband visits her when he can find leisure: such matches are, therefore, generally made between slaves of masters residing near each other. In this case, the children follow the mother, and belong to the owner of the soil. Sometimes by special stipulation, the master of the male slave gets a portion of the male offspring; but never of the female. This stipulation, whenever it occurs, is made in consideration of the occasional deprivation of his slave's services, to which the master of the male slave may be liable by the visits of his slave at the house of the female's master, when at a distance from his own. It does not depend on the amount of the marriage expenses paid by the respective owners.

If a master cannot provide a suitable match, for his male slave, in either of the ways above-mentioned, he procures a free spouse for him, and erects a hut for them near his own house, —the woman preserving her freedom, and all the offspring being likewise free, and no stipulation for a share of them is ever made by the master. The wife however renders service to her husband's master, in consideration of being maintained by him: and such is likewise the case with the children, until they grow up; when they seek their own livelihood as they please.

If a slave girl is married to a free man, the master does not permit her to reside with her husband's family, but provides them a habitation near his own. The husband either follows his usual occupation, or renders service to the wife's owner in return for maintenance. All the children belong to the owner of the mother, who would never agree to any stipulation for their being free.

The Punwah Shadee is not known in my district.

I never heard of a single instance of a slave girl having an illegitimate child. Their conduct is regarded with as much jealousy, and watched with as much care, as that of a daughter.

Though it is not considered disreputable for a master to sell a slave, such transfers seldom take place. They occur only when the master becomes too poor to maintain the slave, or is induced to part with him in consequence of his misconduct.

The following are the usual prices of slaves when valued by arbitrators:

A female of twelve or thirteen years from twenty-five to forty rupees.

Ditto.....eighteen or twenty ..... forty to sixty rupees.

A male.....twelve or eighteen ..... fifteen to twenty-two rupees.

Ditto.....eighteen or twenty ..... twenty-five to forty rupees.

If the seller is pressed for money the prices will be less.

No Hindu master would sell a slave to any but a Brahmin, Rajpoot, Byse or Kait. He never would dispose of one to a Mussulman.

It would be considered harsh to sell slaves in such a manner as to separate husband and wife: and no one would purchase young children under ten or eleven years of age, separately from their mother, as the trouble and expense of rearing them would not be compensated by any services they could render: but after that age, they might be sold separately, and such a proceeding would not be blameable. Subject to the above explanation, it would not be considered hard to sell a slave to any distance, or into another Zillah.

The slave's consent is never asked in such transactions, nor would any objection he might make, be attended to.

There are no slaves *adscripti glebae*.

Slaves are never sold in satisfaction of decrees of Court, or to realize arrears of revenue or rent.

It is not the custom to let to hire or to mortgage slaves.

Hindu free persons or slaves are never sold to prostitutes.

There were three hereditary male slaves in my house. Two died whilst I was young. The remaining one, I married to a free woman whom I procured from a village. I erected a hut for them and she rendered me service in return for my maintaining her. She died childless. I married him a second time to a free woman, a resident of the town of Bhaugulpore. She likewise served me for maintenance, and died childless. I married him a third time to a free woman of a village, who likewise served me as a domestic servant. When I came to Moorshedabad they both accompanied me; but on their falling sick I determined to send them home. I put them on board a boat, bound to a place on the way to Bhaugulpore, giving them five rupees for their expenses. From that boat, I ascertained they embarked on board another, which was to pass Bhaugulpore on its way to the Western Provinces, but they never reached my house. From that day to this, I have never been able to obtain any tidings of them.

THE 15TH FEBRUARY, 1839.

BRIJ NATH DAS VYDIA, MOOKTAR OF BHAWANI KISHWAR  
ACHARJYA, ZAMINDAR OF PURGANNAH ULAL SINGH, IN  
ZILLAH MYMENSING.

I am a native of village Mohulli, Pergunnah Chand Pertaub, in the District of Dacca Julalpoore.

The descendants of my grandfather, including myself, possess the village of Mohulli and some other villages.

My grandfather had six families of slaves, and when the inheritance was divided, each of his three sons, took two families of slaves.

My father placed his two families, on the part of the estate which fell to his share, close to his house, that they might render domestic service in the family.

One of the two slave couples, who fell to my father's share, died without issue. The other had eight children, six males and two females. They served us for some time after the death of their father: but about ten years ago, seven of them (one

having died) went across the Mayawatte, and took refuge on the estate of another Zamindar who harbored them.

We have never taken any legal proceedings, or any other steps, for the purpose of bringing them back,—being doubtful whether the Court would sustain our claim,—and because the Zamindar who harbours them is rich and powerful. They are now receiving his wages.

The father of this family of slaves was a proper Sudra: but the taint of slavery would prevent,—a free Sudra, from associating with him,—not only a free Sudra proper, but even one of the nine improper castes, which are produced from the confusion of castes.

In the country I speak of, all kinds of Sudras, except Kaiets, are to be found,—sometimes in a state of slavery.

The Vydia, I consider, not to be a Sudra, but a Byse.

The origin of slavery, in my country, is self-sale and sale by parents. I have never known any instance of this myself; but I have heard that such sales take place. Neither do I know any instance of sale by one master to another; but I believe such sales do take place. But it is disreputable to sell a slave.

There are no *adscripti glebæ*.

The correction of slaves, depends in a great measure on the temper of the master. Sometimes he will reprove them, sometimes he will banish them, from his presence, and sometimes slap them with his hand, or with a ratan.

Manumission is rarely practiced. But a master in decayed circumstances, will frequently permit his slave to go and earn his own livelihood.

Slaves, when well treated, do not desire manumission; when they are dissatisfied, they run away. Those who run away from us, did so because I wanted to bring two of them down to Calcutta.

Slaves are married, with the same rites, as free persons of the same caste.

When two slaves, belonging to different masters intermarry, if there is no special stipulation, the owner of the female loses all his rights, and the children, of course, belong to the owner of the male. He, however, receives no consideration for giving up these: for in an affair of marriage, who takes a price?

When the owner of a female slave, living in his house, wishes to have her married and at the same time to retain her in his house, he marries her to a professional bridegroom, who visits her occasionally.

This kind of bridegroom is called a Byakara and has many wives. His occupation is considered a profession.

The Byakara receives a small present on each marriage, and when visiting his wives, is fed and clothed by their respective masters. They have generally from five to seven wives.

If, however, a master of a slave girl, has a male slave of his own, fit to be her husband, he would of course prefer such slave to a Byakara.

It happens sometimes, though very rarely, that a free man marries a slave girl of the same caste. He does not lose his freedom by so doing; but he degrades himself, and can only recover his station by divorcing his wife, and making atonement and presents to the priest.

A Byakara is generally a free man who has already suffered degradation.

THE 15TH FEBRUARY, 1839.

**HAR NARAIN TEWARI, MOOKTAR OF THE FAMILY OF  
BISSUMBER PUNDIT, A JAGHIRDAR OF GHAZEEPORE.**

Bissumber Pundit was a Jaghirdar, of Ghazee-pore, having his family mansion at Benares.

I lived for five or six years at the family-house, at Benares. Bissumber Pundit had bought two Rajpoot male slaves. One of them died without issue. The Pundit manumitted the other whose name was Huttoo. He and his children, who were all born after the manumission, were living in the family as servants receiving wages, when I was at Benares. Most of the respectable people of Benares have slaves.

My father bought a male slave, at Calcutta, from the Vakeel of Nepaul, about fifteen years ago, for seventy-five rupees. The Vakeel sold him, on account of his propensity to run away, but without disclosing that circumstance. After three or four years, he ran away. We found him, after two or three years, in Calcutta and laid hold of him. After two or three years more, he ran away again. After a few days, we caught him again, but thinking it not worth while to keep such a man, we told him to go about his business. He has since turned Mahomedan and lives by mendicity. We occasionally give him alms.

THE 19TH FEBRUARY, 1839.

**CHOONEE LAL DOOBE, MOOKTAR AND TAHSILDAR OF THE  
NAWAB NAZIM, OF MOORSHIDABAD.**

I was born in the City of Patna. For the last six years I have resided in Calcutta.

I am acquainted with the Patna jurisdiction, and the district of Behar.

The Hindu slaves are principally Koormees, Kuhars, and Gwalas.

The children of all other castes, except Brahmins, are also sold, but rarely and only under the pressure of great distress. These are heritable property. According to the strict Shaster, the masters cannot sell them; but masters do sell them occasionally in times of difficulty.

I don't know the origin of this slavery: nor is there any tradition on the subject; but I am informed that slavery has existed from time immemorial.

Children are sold by the parents or persons in *loco parentis* in times of distress: but no one else can sell a child. Certainly not the maternal uncle or maternal grandmother as such.

I have heard that self-sale takes place, but I never knew an instance.

All Kuhars are considered as belonging to a slave-stock; though many are practically free having no assignable master. And others have established their independence; though it is well known who their masters are.

There are many Koormees also in this condition: but there are others, who are absolutely free and without any taint of slavery.

The general belief is that the sale of slaves is prohibited by Regulation X, of 1811; and consequently, when a person buys a child from its parent, the instrument

by which, the child is transferred, purports to make over the child for sixty years for the purpose of support,—with a stipulation that if the seller should ever reclaim the child, he shall refund the price and pay all that has been expended in supporting the child. In the case of sale to a procuress it is stipulated, that parents shall further pay the expenses incurred in educating the prostitute.

Formerly, children were sold by a direct deed of sale, and the present form was introduced, to evade the prohibition supposed to be contained in the above-mentioned Regulation.

I do not know the term *Bun Vickree*.

Slaves are married with the same rites, as free people of the same caste.

If I marry my male slave, to the female slave of another master, with his assent, she becomes my slave: but sometimes, there is a stipulation that the offspring shall be divided between the two masters.

If a free Koormee or Kuhar has connection with a female slave, the master lays hold of him and reduces him to slavery.

A free Koormee would not willingly marry his daughter to a slave. But the free Kuhars, being always tainted with slavery, have no objection to such a marriage.

The treatment of slaves is generally good. Their condition is better than that of hired laborers. If they are ill used, they run away.

Male slaves are employed both in in-doors and out of doors. But when the establishment of slaves is large, those employed in agriculture, are separated from the domestic slaves; and in that case, the females of the agricultural class, do light work in the fields.

Sometimes, a master will manumit a slave, with whom he is well pleased; but this does not often happen. Sometimes also he turns him away for bad conduct. In the former case, manumission is usually accompanied, with a gift of the means of earning subsistence.

A slave who misbehaves, is beaten with the hand or a thin stick, or a shoe or a twisted handkerchief.

Those in actual slavery, are about one-eighth of the whole population. But those who have the taint of slavery are about six-sixteenths.

The owners of slaves are principally the owners of land.

There are no *adscripti glebæ*.

My paternal grandfather purchased two Kuhar slaves, man and wife. They had two sons and a daughter. One son died without issue. The other married twice,—the first time, at the expense of our family. The second time, he sought a wife for himself, married at his own expense, and left us. He takes service with other people; but comes to us occasionally at festivals, in the hopes of getting a present. He also comes to us when he is sick. My uncle provided a husband for the daughter, and they remained for sometime within our family, but have now gone away, and are beyond our control. We have remonstrated with them, but they refused to come back,—making excuses but not denying our right. I should be glad to recover her children; but every body is afraid of preferring a claim to slaves for fear of being fined.

A slave is entitled morally and, I should think, legally, to support, in age and infirmity.

By the old law, the master was entitled to every thing which a slave might earn: but I do not know, what may be the law, on the subject, at the present day.

Formerly inferior people would sometimes mortgage their slaves: but it was always disreputable to do so; and now the general belief of the illegality of sales has also put a stop to all mortgages.

Mussulman families possess slaves. Formerly they used to purchase low caste Hindus and convert them to Islamism.

THE 19TH FEBRUARY, 1839.

### ABDUL BARI, KAZEE OF THE CITY OF CALCUTTA.

I am a native of the village Izzat Naggur, in Purgunnah Do Hazare, Zillah Chittagong.

Our family has lands, both paying revenue and lakhiraj, in the above village.

I have been Kazee about eleven years, during which time, I have been frequently in my own country.

Our family, possess about twenty-four hereditary slaves, male and female, adult and infant.

They live close to our house and do both in-door and out-door work. They are all Mussulmans.

Our land is cultivated by ryuts. The parts immediately about the house, about thirty begahs, is cultivated by ryuts under the superintendence of our slaves.

It is usual, in my country, for respectable people to have slaves.

The origin of slavery there, is I believe, the sale of children by their parents in times of scarcity. I never heard of self-sale.

I believe there has never been any importation from Arracan or other places. I have never seen any Mugh\* slaves.

The slaves of the Mussulmans are all Mussulmen. Those of the Hindus are low caste Hindus. I cannot say of what castes.

It is disreputable to sell one's slave. A master, in poverty, would support his slave as long as he was able, and indeed would never turn him away. The relation between master and slave, is considered as a family tie. A slave when his master falls into distress, will some times leave his master to seek his own livelihood. This does not make the slave free, for manumission can only be by express words. Manumission is not frequent but sometimes a master will emancipate a slave with whose conduct he is pleased. I am speaking of Mussulman masters, being little acquainted with the Hindus. When a master emancipates he generally gives land to the freed man or a present of money.

If a slave is refractory, the master will beat him with his hand or with a thin stick or ratan for the purpose of amendment. If he be not corrigible, by this kind of punishment, he is turned away.

If a slave is bent upon running away the master will threaten him. If he actually escapes, the master perhaps complains to the Magistrate. A slave, of my father,

\* The Mughs are inhabitants of Arracan.

ran away with his family. My father applied to the Magistrate who caused the slave and his family to be restored.

Slaves are married with the same rites as free people of the same class. The master marries his male and female slaves together if in that manner he can make suitable matches, if not, he seeks a bridegroom for his female slave among the slaves of other masters, or perhaps he marries her to a poor free Mussulman. A free man will very rarely give his daughter in marriage to a slave, but I have known such a case. A free person does not lose freedom by marrying a slave.

When the slaves of two different masters intermarry, the offspring belong to the master of the mother. When a master allows his slave girl to marry a free man and go away with him, this amounts to emancipation and the children are free. But if the girl remains in her master's service then the children belong to him.

The food and raiment of a slave is superior to that of a hired laborer, and he gets his share of the family meal.

A slave, belonging to a neighbour of mine, ran away and came to Calcutta where he worked as a laborer. His wife and child followed him. After a year, he returned to his master who pardoned him and received him again into his service.

The slaves are entitled, to support in sickness and old age both by law and usage.

No degree of ill-usage confers a right to emancipation.

THE 19TH FEBRUARY, 1839.

### SANKAR NATH JHAH, PRIEST IN THE FAMILY OF KASHINATH, ZEMINDAR OF KOLGONG.

I am a native of the town of Kolgong, in Zillah Boglipoore.

Most of the respectable people in that part of the country have slaves. I have two female slaves, mother and daughter. The daughter, with my consent, married a free man. I do not consider him to be my slave, though he comes to the house and occasionally performs services for me. According to the present local usage, I do not think I have any legal right to his services. I stipulated on the marriage, that he should leave his wife, a slave in my house. But even if there had been no express stipulation, it would have been so understood, according to the usage of the country.

The slaves, in my country, are principally Kurmis. There are but few Kuhars.

The origin of slavery must be traced to self-sale or the sale of a child by its mother, or some maternal ancestor.

A sale by the father alone, while the mother is living, would be invalid; and if the mother were dead, the consent of the maternal grandmother is equally necessary. In a sale by the father and maternal grandmother, the price would be divided according to any arrangement they might make between themselves; but the price would be paid by the purchaser to the father. The father signs the conveyance, of course, but it is safer to get the signature of the maternal grandmother also. But if the mother is alive, her signature is essential.

Some of the Kurmis are quite free from any taint of slavery. Others are practically free, but have the taint of slavery derived from slave ancestors.

The same may be said of the Kuhars.

The self-sale and the sale by parents are much more uncommon among Kuhars than Kurmis, because Kuhars from their impurity are, in a great measure, unfit for service.

Hindus of all castes have slaves if they can afford it. My employer, Kashinath, has two hundred families of slaves.

About twenty or twenty-five slaves are employed about his household. The rest are employed in the cultivation of the lands which he keeps in his own hands. A few, who can write, keep the Zemindarry accounts. Some free ryuts are also employed in the cultivation of the lands which my master keeps in his own hands.

Several of the slaves earn their own livelihood by serving other persons as peons, &c. I do not think the Zemindar receives any portion of their earnings, but a less wealthy master would probably expect some share of the earnings of a slave whom he had allowed to take service.

A great many of these two hundred families, are in truth only nominally slaves, who attend at festivals; for the Zemindars is a decayed family, and not now capable of supporting so many. It would be derogatory to sell them. The lands which the Zamindar has in his own hands contain two or three hundred beegahs.

Slaves, when they much misconduct themselves, are punished by stopping their rations and striking them with the hand or with a stick, according to the disposition of the master. It is the master's right to beat his slave.

Slaves are married with the same rites as free-persons of the same caste.

If I want to marry my male slave, I should first look for a suitable match among my female slaves. If there was no suitable match, I should try to get some free man to give his daughter in marriage. In that case she would not, according to the custom of the country, become my slave, and all the children would be free.

If I marry my slave, to the female slave of another master, and no special stipulation is made respecting the offspring, they all belong to the master of the woman, and without his consent the husband cannot take her to his home.

I have heard that masters sometimes emancipate their slaves, but I never knew a case.

The respectable Mahomedans have generally slaves in their families. The Kurmis will not sell themselves or their children to Mahomedans. But these best supply their wants by purchasing children from low Mahomedans, for instance the Sekaras.

Household slaves are fed from the remains of the master's table.

Slaves, in general, share the fate of their masters. If the master is pinched, so is the slave. If the master is in prosperity, the slave fares well.

The master obtains more work from a slave than from a hired labourer; for the slave has an interest in the master's prosperity. The hired labourer gives the master as little of his labor as he can.

Severity does not confer any right to manumission upon the slave.

It is not usual to mortgage slaves or let them to hire.

I have heard of the species of sale called Bun Vickri as existing in Behar. But it is quite unknown in my country. In all sales of slaves, the deed is called Parum Bhattaruk, and conveys the slave and his future progeny.



The sale of slaves by masters is very rare, being as I have said derogatory to the master. Such sales however do take place when the master is in distress.

The price of a young male adult is about forty rupees, and that of a girl of fifteen about fifty rupees.

There are no *adscripti glebæ*.

The number of persons, in actual slavery, may amount to one-sixteenth of the population.

THE 22D FEBRUARY, 1839.

### ARSHAD ULLEE KHAN BAHADUR, VAKEEL OF THE NAWAB NAZIM.

I am a native of Gaya, in Behar, and have held Judicial and Revenue Offices in various parts of India.

Besides the district in which I was born, I am acquainted, from having served or resided in them, with Etawa, Allyghur, Ghazepore, Mirzapore, Bhaugulpore and Dacca. In all these districts, slavery obtains more or less. But in the greatest degree in Behar, and in the least degree to the westward.

It is thirty years since, I was in Etawa. At that time most of the respectable Hindu proprietors had Kurmi and Kuhar slaves employed as domestics. The Mussulman families of respectability had likewise Mussulman slaves.

The origin of slavery in all the districts, I have mentioned, is sale by parents and self-sales in times of distress.

In Etawa there are very few Mussulmans in so low a condition as to be ever reduced to sell their children. The Mussulmans, therefore, purchase Hindu children and make converts of them.

In all these districts, it is unusual for masters to sell their slaves, and it is considered derogatory to do so.

If a slave is disobedient, it is usual to correct him by slapping him with the hand, and occasionally with a whip, or a ratan.

In Behar, there is a caste called Bamans, who live by agriculture. Most of the landholders, of Behar, belong to this caste. The inferior landholders of this class, who superintend personally the work of cultivation, employ slaves, and I have heard that ill-disposed masters of this class will sometimes beat their slaves severely and sometimes confine them by tying them up. They always feed them well however, that being the master's interest.

The Hindu masters never emancipate their slaves that I know of. Mahomedan masters do occasionally, it being a moral duty in them.

Both by law and usage all the earnings of the slave belong to the master.

Slaves are married with the same rites as free people, and the expense of the marriage is defrayed by the master.

When two slaves, of different masters, intermarry, there is almost always a stipulation as to the ownership of the offspring. When there is not such a stipulation, the offspring follow the mother.

I am speaking of the slaves of Mahomedans, for I am not acquainted with the customs of the Hindus.

I have heard that formerly in Behar, the Magistrate would interfere to restore a runaway slave to his master. But I never saw any case of the kind in the course of my own experience.

The condition of slaves, in Mahomedan families, is generally very comfortable. And, I believe, it is generally so among the Hindus also, with the exception of some of the Baman masters.

All masters support their aged and infirm slaves and, I should think, a slave to whom support was refused might enforce his right in a Court of Justice.

No degree of ill usage confers a right to emancipation.

If the master grossly ill uses his slaves, he is punishable at the discretion of the ruling power.

When the parent or ancestor sells a child, or when a man sells himself, the deed purports to let the services of the subject for a long period, such as eighty years. In practice, such an instrument is understood to convey the subject and all future offspring.

THE 26TH FEBRUARY, 1839.

DAMAR SINGH, NATIVE OF PURNIA, BY CASTE A KAIET,  
PURGUNA HOWELI, MOOKTAR IN THE SUDDER  
DEWANNY ADAWLUT, CALCUTTA.

I am acquainted with the Southern part of District Dinajpore, as well as with my Native District. I held there the office of decree-engrosser. I am now in the service of Rajah Bejai Govind Singh, and Rajahs Bedyanand Singh and Rudranand Singh. Slaves (designated Khawases) exist in Purnia. They are by caste Kaiets or Kybuts and Dhanuks. The great Zamindars have many families of Khawases, most of whom are supported by small assignments of lands. They render occasional service on ceremonies, receiving then; a small pecuniary allowance and rations. The slaves who render constant domestic service, receive monthly wages of one rupee and rations. The condition of slaves is easy. I may say easier than that of laborers. It sometimes happens that a free Kaiet will voluntarily submit to be Khawas, to a Zamindar for the sake of protection and support received. If the slave is allowed to tenant lands, beyond the assignment, for his support he pays rent. Some of this class accumulate property and are extensive farmers. I cannot say whether or not the origin of the bondage of hereditary slaves may be traced back to self-sale or sale by parents, but sale does not now occur in Purnia. Khawases are acquired by the submission, I have described. My master, Bejai Govind Singh, has many families who have submitted to his servitude and continue to do so. The Brahmins are the slave-owners in Purnia. There are a few Khatrias, but they do not own slaves, nor do the Kaiets and other inferior Hindus. Those who voluntarily submit to the slavery of a Brahmin would not submit to serve a Kaiet. The Muslim, of the middle rank, do not own slaves. A few great Muslim

Zamindars, who exist in the district, may own domestic slaves; but, I am not well informed as to their domestic concerns. The Khawases are married with observance of rites. The masters gives a small sum,—usually four rupees, and a quantity of grain on the occasion. The master of the male slave is the owner of the offspring of this marriage, whether the wife be free or slave. A free Kybut readily gives his daughter in marriage to a Khawas. The dominion of the patron or master over the Khawas, who has sought his protection, is not considered as complete though the relation thus established is seldom broken. But should the Khawas seek other protection or independence, I consider that by usage he may do so. The dominion of the master, over his inherited Khawas, is more perfect. In Purnia, labor is very cheap. It is not usual to beat domestic Khawases. If they do not give satisfaction they are expelled. Khawases are employed in the cultivation of their master's private lands. The labor of ploughing and weeding is generally done by hired servants. The Khawases superintend and are employed in reaping, thrashing, and storing. I know of no instance of manumission. In strict right, the master may have a right to the earnings of his slave but it is not enforced. I know of no case involving right of master and slave coming before the Purnia Court. In the Southern part of Dinajpore, I did not observe any slavery. The Khawas who renders actual service as slave is entitled to support in old age and sickness. But the Khawas who is only nominally slave of some patron, whose protection he has sought, is not so entitled. In great families there is a Head or Sardar Khawas. When a stranger seeks the patronage of the master by voluntary submission, the Sardar is directed to enroll or admit him into the brotherhood of the Khawases. The person thus admitted to clientage derives protection and distinction by the use of the patron's name. But the nominal Khawas of this sort may become a tenant on his master's Estate, but does not usually receive any assignment of land.

THE 5TH MARCH, 1839.

### JOG DHYAN MISR, PROFESSOR OF MATHEMATICS IN THE SANSKRIT COLLEGE.

My family belongs to Lahore, but I am a native of Benares.

I have been resident in Calcutta eighteen years. But in the course of that time I have visited various parts of Hindustan.

The respectable inhabitants of Benares and the vicinity have all domestic slaves. The slaves are Kuhars, Kurmis, and the spurious descendants of Rajpoots.

The origin of slavery is either self-sale or sale by parents, or the birth of a child begotten upon a concubine. Such a child and all its descendants are slaves.

Self-sale and sale by parents is common in Benares, and so is sale from one master to another, but a master will not, in general, sell his slave unless he is in straitened circumstances.

A master may correct his slave, as a father may correct his child, or a master his apprentice.

I have heard that slaves are sometimes manumitted when they have done something with which the master is much pleased. But I never knew an instance.

The earnings of the slave, all belong to the master. He can hold no property unless by the indulgence of the master.

Slaves are married with the same rites as free people of the same caste.

If the male slave of one master marry the female slave of another, the offspring belong to the master of the female. The same, if a female slave marry a free-man. In the latter case, the free-man is my slave so long as he cohabits with his wife. But he may dissolve the connection whenever he chooses to desert his wife.

If a free-woman marry my slave, she makes herself my slave irrevocably.

These rules obtain not only at Benares, but at Delhi, Lahore and all the parts, westward of Benares.

The begetting of slaves upon concubines is a practice which is not openly avowed though it is done frequently. But in the Dakhn this is done openly without scruple.

The treatment of slaves is generally good. They are for the most part better treated than hired servants.

Masters always support their slaves in sickness and old age. If a master should neglect to do so, the Ruling power ought to compel him.

Ill usage does not confer a right to emancipation. But the Ruling power ought to punish the master in that case.

It is not usual to let slaves to hire nor to mortgage them. But a father, upon the marriage of his daughter, frequently gives a slave or two as part of the marriage present.

When a master falls into decayed circumstances he generally dismisses his slaves to seek their own livelihood. And in that case, if he afterwards recall them to his service, I think that he cannot legally appropriate their earnings.

The form of self-sale and sale by parents is a regular bill of sale when any written document is drawn up. But most commonly there is none.

THE 8TH MARCH, 1839.

## SOO DURSUN LOLL, MOOKTEAR IN THE SUDDER DEWANNY ADAWLUT, CALCUTTA.

I am a native of the village Terali, Purgunnah Goa, in Sarun.

It is nine years since I left my native country. In most of the respectable families there are hereditary slaves. The origin of this slavery is self-sale. But such sales no longer take place, nor do sales from master to master.

The castes, to which slaves belong, are Kurmees, Kuhars, Dhanuks, Baris, Napits.

Though slaves are not sold, yet they are commonly given as part of the marriage present by the father of the bride.

Slaves are coerced by blows. When a master falls into decayed circumstances, he sometimes tells his slave to go and earn his own livelihood; and I have heard of a slave being emancipated.

The slaves benefit by the prosperity and suffer by the adversity of their masters; and, of course, feel an interest in his fortunes.

Some of the great Zamindars, have as many as two hundred slaves, but most of them only give occasional attendance, being settled on lands belonging to their master.

Free people and slaves do not intermarry.

If the slaves, of two different masters, intermarry the ownership of the offspring is generally settled by stipulation, but in default of stipulation they belong to the master of the father.

The master always pays the expenses of the marriage of slaves.

THE 15TH MARCH, 1839.

### LALA DEOKE NUNDUN, MOOKTEAR OF THE RAJAH OF CHOTA NAGPORE.

I am a native of Bhojpore, in Shahabad. I resided about seven years ago at Lohar Daga, the principal estate of the Rajah, and I have visited his other estates which are all in the Jungle Mahals.

Slavery, in the general acceptation of the term, obtains in this part of the country, and a particular form exists there called a Sunkia.

The Sunkia is a man of low caste, who in consideration of an advance from ten to thirty rupees or more, assigns himself to the lender until he repays the loan. It seldom happens that the loan is ever repaid though he sometimes procures himself to be transferred to a new master who of course pays a consideration to the old one. But a Sunkia cannot be handed over to a new master without his own consent. If a Sunkia does not perform his duty the master, I conceive, is entitled to compel him by force.

The Sunkia receives rations about three seers of grain a day and a piece of land, generally about two begahs, which he is allowed to cultivate on his own account. He also receives clothing,—two dhoties and a blanket a year. The people who assign themselves in this form are generally outcasts. Almost all the following classes of people are Sunkias, (Bhuyas, Coles and Soutwals) Kurmees and Kuhars, many of whom are domestic slaves, very rarely become Sunkias.

It is more economical to employ Sunkias than slaves because the master has to pay the expense of the marriage of his slaves.

I cannot say why this peculiar form of slavery prevails rather than common slavery, except that these classes of people do not choose to sell themselves or their children.

The slaves of this part of the country are all Kurmees and Kuhars. The origin of their slavery is sale by a mother, a maternal grandfather, or grandmother. No one would buy a Kurmee or Kuhar from himself. No such transaction is known either in the country I am speaking of, or in Shahabad.

Sales by relations and sales from one master to another used to be common. But an impression has got abroad that they are prohibited and in consequence of this

## EVIDENCE

sales are now made under the disguise of a deed of hire. I believe arose from some late decisions and dicta of the Sudder Judges. I allude to two particular cases, in one of which I was Mooktear.

In the sale of Kurmee and Kuhar children, the consent of the father is quite unimportant.

The general condition of slaves in the parts of which I have been speaking is good. They are sometimes corrected with slaps and so are Sunkias. But no severe punishment is ever inflicted, if it were, the slave would run away.

In Shahabad and Behar the poorer class of masters who have not much occasion for domestic services employ their slaves in agriculture. I allude to the Rajpoots of Shahabad and the Brahmins of Behar.

The Rajah has from eighty to one hundred domestics, but he has no agricultural slaves, nor Sunkias, having no land in his own hands.

THE 15TH MARCH, 1839.

### SRI DHAR BUKSHI KAIT, AGENT OF THE RAJAH OF PACHIT, IN THE JUNGLE MEHALS.

I am a native of Jumalpoore, in Western Beerbhoom.

I am an hereditary servant of the Rajah, and frequently go backwards and forwards between his residence and Calcutta.

My master and the respectable people of that part of the country, in general, possess slaves.

The slaves of my master's family are spurious Rajpoots. He himself is a Khetrya of the solar race.

The slaves in general are Kaits, Koomars, Kamars, Kurmi, Chasa, Kybert, Bhuyana. The Kait slave is very rare.

There are also some low caste persons who contract the obligation of servitude in consideration of an advance of money. They become free upon re-payment of the advance, and are entitled to food and clothing from the master in the mean time.

The master may assign such a person over to a new master without his consent.

The origin of the slavery of this country is sale by parents and also self-sale as I have heard. These sales generally take place when the family is in distress. But sometimes a parent will give his child, as a slave, to a great man like my master with a view to the advantages of that position.

If two slaves of different masters intermarry, the offspring belong to the owner of the father unless there is some express stipulation.

If a free woman marry a slave she and her offspring follow his condition.

The sale of slaves, by masters, is not common and only takes place when the master is urged by distress. The price varies much according to the merits of the slave.

Slaves are punished by blows, with a slipper or a ratan, and by confinement. Since the Government of the English, masters have been careful not to ill treat their slaves from the fear of punishment.

The earnings of the slave all belong to his master.

I am myself the owner of two slaves belonging to the Baori caste. My father left us several slaves, but we have fallen into straitened circumstances, and are not able to support them, and except the two I have mentioned, they are practically free and earning their own livelihood.

We have not sold them because they would have fetched very little, and it would be disreputable to do so. They say they will come back to us if we ever regain our station in the world, and, I believe, they would.

There is a kindly feeling subsisting between hereditary slaves and their masters. The slaves will sometimes beg for the support of their masters.

The slave has a right to support from his master when he is incapable of work.

Sometimes a master hires out the services of his slave, but only when he is in low circumstances.

THE 22D MARCH, 1839.

#### BAHADOOR RUZA.

I am a native of Sylhet and the owner of two Talooks in that District. One of them, is in the Lahore Division and the other in Bunia Choung. On the former there are about twenty-five families of hereditary slaves of my family and on the other about a hundred and twenty. They are now only nominally slaves. Down to the time of my father they performed the service of watch and ward. But now they do not differ from other ryuts paying rent on the estate except that they sometimes come upon occasion of ceremonies and that they always ask my permission to marry. Some of them also cultivate the lands of other Zemindars. I neither give them any thing nor receive any thing from them.

So purely nominal is my dominion over these people that about fifteen years ago I bought five male and five female slaves for domestic purposes. I bought them from their parents. Seven of these, were children of Mahomedans,—natives of the country, who were in distress. The other three were Hindu children from Munipore who have become Mahomedans, of course, as being slaves of a Mahomedan master. About the time when these last were bought, a great many inhabitants of Munipore took refuge in Sylhet from the terror of a Burmese invasion and sold their children into slavery.

Six of these slaves have run away and I know that three of them are at Dacca. I mean to sue in the Civil Court for restitution of their services.

My father bought two slaves named Chunda and Nida from their master. They refused to come under his dominion, whereupon he sued them in the Civil Court of Sylhet. My father died during the suit. I continued it and got judgment which was confirmed on appeal in the Provincial Court of Dacca. The defence was, that they were not slaves, and upon that point being decided against them they came under my dominion.

THE 30TH MARCH, 1839.

## PRAWN KISHEN DUTT.

My father is a small Talookdar in Pergunnah Bejorira, in Sylhet, adjoining Bunia Choung.

He owns about seventy-five families of slaves, of which about sixty are Hindus, principally Kaits and Kybert Das. The remainder are either Mussulmans or Chundals. These people are located in the vicinity of our house, and cultivated the lands of the Talook, paying rent to my father. The only service they perform for my father is that they cultivate, when called upon, the land, which he keeps in his own hands, which is about two and half ploughs: for this they receive no remuneration. Four or five male and six or seven female Kaits are employed, as domestic servants, in our house, and these also occasionally cultivate my father's land.

When any of these domestic slaves are married, it is at my father's expence.

When any man wishes to marry one of the female slaves not domestic, he first asks the consent of her father, and having obtained that, he asks the consent of the master; and if that is granted, he makes a small present of one or two rupees, and our proprietary right over the girl ceases.

My father bought about ten families of these slaves. The motive for buying is that they increase the consideration of the owner. They were bought from their former master.

Cases relating to slavery frequently come before the Courts in Sylhet. The Magistrate, if a *prima facie* case of slavery, is made out, refers the alleged slave to the Civil Courts.

A slave named Bolha was the property of my two uncles Gouri Sunkur Dutt and Jugul Kishwur Dutt. About twenty-five years ago, his maternal grandmother, also their slave, sold him fraudulently to Gopal Kishen and others who resided at a distance. Bolha the slave and Gouri joined in suing Gopal and the other Vendees to set aside the sale. Jugul was then absent in Assam.

THE 30TH MARCH, 1839.

LALLA RAM CHARAN LAL, AGENT OF MAHARAJAH LUTCHMEE  
NATH SINGH, OF RAMGHUR.

I am a native of Village Amarut, Purgunnah Sheerghotty, in what is now the Behar District, formerly the Ramghur District.

In my Purgunnah, and in Hazareebagh, slaves are of two kinds; the domestic slave who is always either a Kurmi or a Kahar, and the Kamia or out-door laborer who is an outcast, either Bhuyian, Rajwar, Ghatwan, Turi or Bokta.

The Kamias are sometimes absolute slaves and are then called Saunkia; sometimes bound until the repayment of a loan.

There is no such thing, as a sale of a man for life without his offspring.

The origin of the slavery of the Kurmis and Kahars is the sale of adults or children by their mothers. The presence of the maternal grandmother, or if she is dead, of the maternal uncle, is necessary to this kind of sale. If the mother is dead, the grandmother may sell. If the grandmother is dead, then the maternal



uncle. When a female is thus sold, her future offspring pass by the sale. When a male is sold, his future offspring are not affected. When an adult is sold his consent is not asked. The mother may sell her daughter though she be married. If the husband is a freeman he generally follows his wife. But if he is the slave of another master, then they are separated and the husband looks out for another wife.

The sale called Bunvikree is known in the country of which I am speaking; and the price is lower, than when the subject of the sale is in the possession of the seller.

I consider that all the Kurmis and Kahars belong to slave stocks, though many of them are practically free. But they are all liable to be sold as above.

The origin of the slavery of the Kamia is self-sale, and sale by the father or other person exercising parental authority.

The Kamia, who is bound until he repays a loan, is not transferable except by his own consent. He cannot leave his master, except at the end of the agricultural year,—though he should have the money to redeem himself ready before that period.

All the respectable people cultivate their land by Kamias.

The Maharajah has about five hundred of them cultivating the land which he keeps in his own hands.

The master of a Saunkia never interferes with the female children of Saunkias: in strictness I suppose, he has the right to do so, but it is not the custom. The Saunkia marries his female children as he pleases. It is otherwise with the Kurmis and Kahars; the marriage of their female children are made by the master, who pays the expenses.

The Saunkia is allowed three seers of grain in the husk daily and one seer of rice. If his wife labor in the fields she receives the same. If she is sick or does not labor from any cause, she receives nothing. During the harvest the men receive one and third sheef of the crop every day. Besides this, the Saunkia has two beegahs of land and two Mohwa trees, and has the use of his master's bullocks to cultivate the land and seed grain. He is also clothed

The Kamia who is bound till he repays a loan receives nothing but three seers of grain in the husk.

The average price of a Saunkia may be about fifty.

The amount of the advance to the bondsman is from ten to twenty.

If the bondsman die before the loan is repaid, his son, as a matter of course, takes his place. This is the established custom.

In Behar, the Kamia is bound not only to repay the principal of the loan but also to pay interest, which makes the condition of the Kamia amount in fact to the absolute slavery of himself, and some or all of his descendants.

On the death of the father one or more of his sons become Kamias for the payment of the debt; the arrangement being settled by arbitrators, and new engagements executed between the parties.

In Behar the Kamias are Bhurjeans and Moosur.

One Petumbur Singh, of Seekun, in Behar, enticed away nineteen or twenty Kamias from Sheergotty, and the Magistrate of Behar caused them to be restored. Many suits respecting Kamias have been decided in the Civil Court, at Sheerghotty; but I know of no case in which a creditor has sued the sons of a deceased Kamia in consequence of having been unable to bring them to terms.

## CAPTAIN BOGLE, COMMISSIONER OF ARRACAN.

I first went to Arracan, in the end of 1828, to Command the Provincial Battalion. In 1829, I was transferred to the Civil Department as an Assistant to the Commissioner. I left the Province in July, 1831. In 1837, I returned to Arracan as Commissioner, which office I still hold.

No slavery, now exists in Arracan. When I was first there, I found slavery and bondage existing, but not to a great extent.

All civil rights were reduced to a state of great uncertainty by the Burmese conquest in 1783. In consequence of this, the number of slaves appears to have much decreased.

The abolition of slavery and bondage was brought about in the following manner.

In the year 1834, some correspondence took place between the local Superintendent and the Commissioner Mr. Walters, at Chittagong, (Arracan and Chittagong were at that time under the same Commissioner) on the subject of slavery and bondage; and the result of the correspondence was, that the Commissioner directed the Superintendent to declare all slaves and bondsmen free, if he thought he could do so with safety.

The Superintendent accordingly issued a Proclamation to that effect. This Proclamation occasioned considerable dissatisfaction; but no disturbance was created nor was there any public demonstration. I have reason to think that the Proclamation produced a practical effect, and that many slaves left their masters in consequence of it.

When I returned to Arracan as Commissioner, in 1837, some petitions were presented to me by persons, who had been owners of slaves and bondsmen, complaining that their slaves and bondsmen had left them, and that they had not been able to obtain redress from the local officers. Upon the receipt of these petitions, I inquired into the matter, and found that the Proclamation above-mentioned had been issued. I therefore discouraged the petitioners.

Afterwards, when I went into the interior, a great number of similar petitions were presented to me. These I referred to one of my Assistants, and upon his report, I was satisfied that it was not prudent to stir the question at all, and that if I did so, I should be overwhelmed with petitions.

I have never been called upon to decide judicially upon the validity of the Proclamation.

Notwithstanding the Proclamation, I believe that a considerable number of slaves and bondsmen still exist *de facto*.

I do not remember any complaints, made by slaves or bondsmen of ill treatment on the part of their masters.

The agriculture of the country is carried on by very small proprietors, who hold the plough themselves.

The highest class of people, in the country, is the *Soogree*, a kind of *Tehsildar*. And I have known, in some instances, the sons of such persons, to hire themselves as day laborers.

The condition of a slave is not distinguishable from that of a free laborer.

There is no want of free laborers.

At harvest time, a great many come from Chittagong and return home after the harvest.

I believe, that the slavery of Arracan originated in predatory expeditions into the adjoining countries.

I was in Assam from 1833 to 1837, as Assistant to the Commissioner.

A very large proportion of the land, and all the best land, is held by Bramins, who are also the principal holders of slaves.

It would not be nearly so easy, to abolish slavery in Assam as in Arracan, because the proprietors of slaves are men of such considerable wealth and power.

Since we have had the country, we have never permitted the masters to punish their slaves more severely, than a father may punish his child.

When I first went to Assam, many of the principal people kept stocks in their houses, and used to put their slaves or any poor person who offended, into them.

Since we have been in possession, these stocks are no longer permitted.

The real motive, which now induces the slave, to do his work, is the fear of losing the advantages of his situation.

Cases of oppression were every now and then occurring while I was in the country. But we have always punished the oppressors, whenever complaints have been substantiated.

I do not consider that by law, the master has any power of punishing his slave by beating: but no doubt if a slave complained, and it turned out that his master had only given him a slap, the Court would scarcely think the case worth noticing.

I think that an act abolishing the master's power of punishment altogether would make no change in the law of Assam.

I believe that a considerable part of the slavery, now existing in Assam, originated in the Paik system, which was this. The native Government, permitted the Paiks to hold land at a small quit rent and exacted labour from them in return. The Government used to pay all its Officers by assignments of the labour of these Paiks. Before the country came into our possession, the public Officers continued frequently through the imbecility of the Government to make slaves of the Paiks, to whose services they had been thus entitled, and also to usurp the lands to which these Paiks were entitled.

After the Province came into our possession a minute inquiry was made into this abuse. In consequence, several thousands were liberated. But the inquiry itself was so vexatious and gave rise to so much bribery, that the Commissioner put a stop to it before it was completed.

In 1834, the Government gave orders that no slaves should be sold in execution of decrees or for arrears of revenue. This was followed by a great decrease in the value of slaves.

The most common way of maintaining slaves, in Assam, is by assigning them a portion of the master's estate to cultivate,—the produce being divided between the master and slave, and the share of the slave being sufficient for the subsistence of himself and his family.

I think the effect of abolishing slavery, in Assam, would be, that the indignation of the master and the insolence of the slave would prevent them from making the agreement for labour which their mutual interests would suggest; and thus considerable mischief would, for some time, be produced.

In consequence of the ignorance of the bondsmen, and the power and injustice of those to whom they were bound, it frequently happened that, though a man had bound himself for not more than eight rupees yet his son and grandson remained in bondage. In fact, if a bondsman died without having discharged his debt, the master

seized upon his nearest relation and compelled him to serve so long as the debt remained unpaid. I brought this abuse to the notice of the Commissioner, and he directed me, whenever a bondsman applied for his release, to fix the price of the plaintiff's labour, and after deducting from it what might be esteemed a fair equivalent for maintenance, to carry the balance to the credit of the Plaintiff, and whenever the sum, thus credited, sufficed to extinguish the original debt with legal interest, or the Plaintiff paid up whatever was wanting in the amount so credited to effect such extinction to award to the Plaintiff an entire discharge and liberation from his bondage. But to prevent protracted investigations, and to protect the master from vindictive prosecutions, the Commissioner further directed, that no master should be required to account for any sum that might be carried to the credit of the Plaintiff under the above rule in excess of the amount of the original debt with legal interest, and that no suit, by a liberated bondsman, for any sum alleged to be due to him on account of labour performed during his bondage, should be entertained. A great many bondsmen were released under the operation of this rule.

Several of the bondsmen thus liberated, have left their masters and sought employment elsewhere.

Several European settlers have established themselves in Assam who have taken bondsmen, but they generally escape and the European finds it impossible to trace them out. The native master would find sympathy and aid in a search for a runaway bondsman.

THE 16TH AUGUST, 1839.

## W. R. YOUNG, Esq. COMMISSIONER TO INQUIRE INTO THE CONDITION OF THE SETTLEMENTS IN THE STRAITS.

I am aware that the question of abolishing the Court of Judicature in the Straits has been under discussion. My opinion is that, so long as the law of England obtains in these settlements it would not be advisable to intrust the administration of it to unprofessional Judges without some professional check.

The Court of Judicature is not only a Court of First Instance, but is also a Court exercising a superintending jurisdiction over the Justices of the Peace and the Court of Requests, and I think it very necessary that some such jurisdiction should exist, on the spot, to prevent the inconvenience which suitors much suffer from the delay in correcting the mistake of those subordinate functionaries.

A circuit, made by a Judge of the Supreme Court from Calcutta, would not adequately perform these functions unless it took place several times in the course of the year. I should say not less than three times.

I will give as an illustration of the necessity of a professional Judge, a case which occurred while I was in the Straits.

The indorsee of a bill of lading in which freight was expressed to have been paid in London, brought an action against the Captain to recover the goods he having refused to deliver them on the ground that the freight had not in fact been paid. After the merits of the case had been investigated, the defendant objected that

the Plaintiff has no sufficient interest in the goods to maintain the action. No Recorder was present, and the unprofessional Judge decided that the objection was fatal though the merits of the case were clearly with the Plaintiff. It is generally understood that this decision is wrong in point of law.

I think that admitting the expediency of having a professional Judge on the spot for the decision of such cases as I have specified, it is nevertheless true, that such a Court ought not to be paid entirely out of the revenues of India. But some part of the expences of such a Court may reasonably be paid out of those revenues in respect of the benefit which India derives from the Settlements in the Straits in a commercial way, and as receptacles for convicts.

I see no mode, in which the revenue of the Straits can be increased except by customs.

I did not hear that the decision of the Recorder's Court by which it was held that the Dutch Roman Law was abolished in Malacca, had created any dissatisfaction among the Dutch inhabitants.

All conveyances of real property between Englishmen are according to the English forms. But the Court would receive evidence of the native customs in a conveyance between natives.

I wish to observe that not only the European inhabitants but also the natives are very much attached to the present administration of Justice, and that they would not like any such change as would leave the Settlements without a professional Judge.

Supposing that the Recorder's Court is not abolished, the principal reform which appears to me to be necessary is the simplification of the pleadings and procedure. Sir Benjamin Malkin, did a great deal towards the accomplishment of this end. But now the business of preparing the pleadings has fallen into the hands of law-agents, and they have become long and technical. The proper remedy, for this, I conceive to be that the parties should be obliged to state their case *vivâ voce* in Court, except in cases of sickness or other reasonable excuse.

I do not think there would be any difficulty in finding persons competent from their general respectability, to sit as jurors or assessors in the Courts. But in as much as it would be very difficult to find persons wholly disinterested, I think it would not be safe to make their verdict binding on the Court. I do not think the people would at all complain of this burthen if the number of Jurors or Assessors were limited to two or three.

I was sent by the Government of Bengal, as a Commissioner, to inquire into the condition of the Settlements in the Straits.

I was about eighteen months in the different Settlements.

The Proclamation\* alluded to, has been observed, but it has not been understood to include the case of persons who are imported as the Chinese are under a bargain with the Captain that they will bind themselves to serve for a term some person who will pay for their passage.

I believe there is a considerable number both at Singapore and Penang who are now serving under such contracts.      \*~

I do not think the masters of such persons ever attempt to enforce the contract by personal chastisement.

The transfer of these persons from one person to another, without their own consent, is not legal.

\* NOTE.—Published by the Government of these Settlements in March, 1830, prohibiting the importation of persons under the denomination of slave debtors.

## EVIDENCE

I never heard, while I was at Malacca, that any such agreement, as the one now alluded to,\* had ever been entered into.

In fact, the Dutch Inhabitants do generally possess slaves, but not the British. There is no slavery at Penang.

I consider Province Wellesley to be exactly in the same condition in point of Law as Penang in respect of slavery. But in consequence of its bordering upon the Siamese territories, I believe that in fact there are some persons held in slavery.

I believe that the debtor servants are in general well treated, but I think the system of debtor-service, a very inefficient one.

I wish to observe that I only speak from a general impression of what I heard and saw, for it was not part of my duty to inquire particularly into the state of slavery in the Straits.

THE 30TH NOVEMBER, 1839.

\* An agreement entered into by the inhabitants at a meeting assembled on the 28th November, 1829, that slavery shall not be recognized in the town and territory of Malacca, after the 31st December, 1841, A. D.



## APPENDIX H

### *Official Returns as to Slavery in the Provinces included in the Presidencies of Fort William and Agra.*

1. Letter of the Law Commission to Registrars of the Courts of Sudder Dewanny and Nizamut Adawlut, established at Calcutta and Alláhábád, dated the 10th October, 1835.
2. Reply thereto from the Register of the Calcutta Courts, dated 3d March, 1837, with enclosures, viz.
3. Mr. T. C. Robertson's Minute inclosed therein.
4. Mr. Officiating Deputy Register H. Torrens' Note, ditto.
5. Return by Mr. H. Ricketts, Commissioner of Cuttack, 19th Division, Balasore, inclosed therein.
6. " Mr. J. C. Brown, Civil Judge, Behar, inclosed therein.
7. " Mr. H. V. Hathorn, Judge, Cuttack, ditto.
8. " Mr. J. Grant, Acting Magistrate, Balasore, ditto.
9. " Mr. T. C. Scott, Magistrate, Balasore, ditto.
10. " Mr. M. Mills, Officiating Magistrate, Cuttack, ditto.
11. " Mr. J. K. Ewart, Officiating Joint Magistrate, Pooree, ditto.
12. " Mr. Abercrombie Dick, Judge and Sessions Judge, Midnapur, ditto.
13. " Mr. J. Stainforth, Officiating Magistrate, Midnapur, ditto.
14. " Mr. D. J. Money, Acting Joint Magistrate, Midnapur, ditto.
15. " Mr. H. M. Pigou, Commissioner, 18th Division, Jessore, ditto.
16. " Mr. E. M. Gordon, Commissioner of Circuit, 14th Division, Moorshedabad, inclosed therein.
17. " Mr. E. J. Harington, Officiating Judge, Hooghly, inclosed therein.
18. " Mr. E. A. Samuells, Officiating Magistrate, Hughly, ditto.
19. " Mr. J. Curtis, Judge, Burdwan, ditto.
20. " Mr. R. Macan, Additional Judge, Burdwan, ditto.
21. " Mr. W. Tayler, Officiating Magistrate, Burdwan, ditto.
22. " Mr. W. H. Elliott, Officiating Magistrate, Bancoorah, ditto.
23. " Mr. J. H. D'Oyly, Civil and Session Judge, Birbhum, ditto.
24. " Mr. W. J. H. Money, Acting Magistrate, Birbhum, ditto.
25. " Mr. H. J. Middleton, Judge, Murshedabad, ditto.
26. " Mr. G. Myers, Principal Sudder Aamin, Murshedabad, ditto.
27. " Mr. R. Torrens, Magistrate, Murshedabad, ditto.
28. " Mr. C. R. Martin, Officiating Judge, Twenty-four Pergunnas, ditto.
29. " Mr. J. Russell, Officiating Magistrate, Twenty-four Pergunnas, ditto.
30. " Mr. G. W. Battye, Joint Magistrate, Baraset, ditto.
31. " Mr. C. G. Uday, Civil and Sessions Judge, Nuddeah, ditto.
32. " Mr. H. P. Russell, Officiating Additional Judge, Nuddeah, ditto.
33. " Mr. R. C. Halkett, Officiating Magistrate, Nuddeah, ditto.
34. " Mr. C. Phillips, Judge of Jessore, ditto.



35. Return by Mr. A. F. Donnelly, Officiating Magistrate, Jessore, inclosed therein.
36. " Mr. R. W. Maxwell, Judge of Backergunge, ditto.
37. " Mr. H. Stainforth, Magistrate, Backergunge, ditto.
38. " Mr. W. Dampier, Commissioner 16th Division, Chittagong, ditto.
39. " Mr. H. Moore, Acting Judge, Chittagong, ditto.
40. " Mr. G. Bruce, Acting Joint Magistrate, Noakhollae, ditto.
41. " Mr. J. Shaw, Civil and Session Judge, Tipperah, ditto.
42. " Mr. — Allen, Assistant Joint Magistrate, Tipperah, ditto.
43. " Mr. J. Lewis, Commissioner of Circuit, Dacca, ditto.
44. " Mr. J. F. G. Cooke, Officiating Civil and Session Judge, Dacca, ditto.
45. " Mr. J. Grant, Magistrate, Dacca, ditto.
46. " Mr. W. H. Martin, Joint Magistrate, Furreedpur, ditto.
47. " Mr. G. C. Cheap, Judge, Maimunsiagh, ditto.
48. " Mr. D. Pringle, Magistrate, Maimunsiagh, ditto.
49. " Mr. C. Smith, Civil and Session Judge, Sylhet, ditto.
50. " Mr. R. H. Mytton, Magistrate, Sylhet, ditto.
51. " Mr. C. W. Steer, Commissioner of Circuit, Banleah, ditto.
52. " Mr. R. Barlow, Judge, Rajshahi, ditto.
53. " Mr. H. T. Raikes, Officiating Magistrate, Rajshahi, ditto.
54. " Mr. J. B. Ogilvy, Joint Magistrate, Pubna, ditto.
55. " Mr. J. Taylor, Joint Magistrate, Bogra, ditto.
56. " Mr. T. A. Shaw, Civil and Session Judge, Rungpur, ditto.
57. " Mr. H. F. James, Magistrate, Rungpur, ditto.
58. " Captain Davidson, North East Rungpur, ditto.
59. " Mr. J. Wyatt, Civil and Session Judge, Dinagepur, ditto.
60. " Mr. G. T. Shakespear, Officiating Magistrate, Dinagepur, ditto.
61. " the Honorable R. Forbes, Officiating Magistrate, Malda, ditto.
62. " Mr. H. Nisbet, Judge of Purnea, ditto.
63. " Mr. W. P. Goad, Acting Magistrate, Purnea, ditto.
64. " Captain Wilkinson, Governor General's Agent, Kishenpur, ditto.
65. " Lieutenant J. Hannyngton, Assistant Governor General's Agent, inclosed therein.
66. " Captain L. Bird, Principal Assistant Governor General's Agent, inclosed therein.
67. " Mr. J. Davidson, ditto.
68. " Mr. C. Harding, Commissioner of Circuit, 12th Division, Bhagulpur, inclosed therein.
69. " Mr. E. Lee Warner, Civil and Session Judge, Bhagulpur, ditto.
70. " Mr. J. Dunbar, Magistrate, Bhagulpur, ditto.
71. " Mr. H. Laing, Officiating Joint Magistrate, Monghyr, ditto.
72. " Mr. F. Gouldsbury, Officiating Additional Judge, Behar, ditto.
73. " Mr. H. V. Hathorn, Magistrate, Behar, ditto.
74. " Mr. C. Tucker, Commissioner, Patna.
75. " Mr. G. J. Morris, Judge, Patna, ditto.
76. " Mr. W. R. Jennings, Magistrate, Patna, ditto.
77. " Mr. J. Hawkins, Officiating Judge, Shahabad, ditto.
78. " Mr. T. Sandya, Officiating Magistrate, Shahabad, ditto.
79. " Mr. T. R. Davidson, Officiating Civil and Session Judge, ditto.
80. " Mr. W. — — — — — ditto.

81. Return by Mr. R. J. Davidson, Judge, District, Allahabad, ditto.
82. " Mr. C. G. G. Officiating Assistant Judge, Faizabad, ditto.
83. " Mr. J. J. Williams, Magistrate, Faizabad, ditto.
84. Reply from the Officiating Commissioner of Circuit, 4th Division, Allahabad, dated 10th March, 1891.
85. Return by Mr. R. C. G. G. Officiating Assistant Judge, Faizabad, ditto.
86. " Mr. A. M. M. Magistrate, Faizabad, ditto.
87. " Mr. A. F. G. G. Officiating Assistant Judge, Faizabad, ditto.
88. " Mr. B. H. G. G. Officiating Assistant Judge, Faizabad, ditto.
89. " Mr. B. H. G. G. Officiating Assistant Judge, Faizabad, ditto.
90. " Mr. B. H. G. G. Officiating Assistant Judge, Faizabad, ditto.
91. " Mr. J. G. G. Magistrate, Faizabad, ditto.
92. " Mr. B. T. G. Judge, Jaunpur, ditto.
93. " Mr. C. T. G. Magistrate, Jaunpur, ditto.
94. " Mr. W. G. G. Civil and Session Judge, Benares, ditto.
95. " Mr. D. B. G. Magistrate, Benares, ditto.
96. " Mr. H. H. G. Civil and Session Judge, Benares, ditto.
97. " Mr. W. H. G. Officiating Commissioner of Circuit, 4th Division, ditto.
98. " Mr. J. G. G. Civil and Session Judge, Allahabad, ditto.
99. " Mr. A. G. G. Magistrate, Allahabad, ditto.
100. " Mr. S. G. G. Judge, Bundelkhand, ditto.
101. " Mr. R. C. G. G. Acting Magistrate, Bundelkhand, ditto.
102. " Mr. H. G. G. Magistrate, Ilmorambur, ditto.
103. " Mr. R. J. G. Judge, Putehpur, ditto.
104. " Mr. H. G. G. Officiating Magistrate, Putehpur, ditto.
105. " Mr. R. G. G. Officiating Judge, Gwalior, ditto.
106. " Mr. C. M. G. Magistrate, Cawnpur, ditto.
107. " Mr. J. G. G. Joint Magistrate, Belah, ditto.
108. " Mr. C. G. G. Officiating Commissioner, 2d Division, Agra, ditto.
109. " Ms. A. W. G. Officiating Judge, Mynpooree, ditto.
110. " Mr. H. G. G. Magistrate, Mynpooree, ditto.
111. " Mr. J. P. G. G. Joint Magistrate, Etawah, ditto.
112. " Mr. J. G. G. Officiating Civil and Session Judge, Agra, ditto.
113. " Mr. S. G. G. Magistrate, Agra, ditto.
114. " Mr. W. H. G. Magistrate, Muttra, ditto.
115. " Mr. J. G. G. Judge, Alligurr, ditto.
116. " Mr. H. G. G. Officiating Judge, Furruckabad, ditto.
117. " Mr. F. H. G. Magistrate, Furruckabad, ditto.
118. " Mr. S. M. G. Commissioner of Circuit, Bareilly, ditto.
119. " Mr. W. G. G. Judge, Bareilly, ditto.
120. " Mr. W. J. G. Magistrate, Bareilly, ditto.
121. " Mr. G. S. G. Magistrate, Bareilly, ditto.
122. " Mr. S. S. G. Magistrate, Bareilly, ditto.
123. " Mr. E. S. G. Judge, Bareilly, ditto.
124. " Mr. V. G. G. Magistrate, Bareilly, ditto.
125. " Mr. D. G. G. Magistrate, Bareilly, ditto.
126. " Mr. G. G. G. Magistrate, Bareilly, ditto.
127. " Mr. F. G. G. Magistrate, Bareilly, ditto.

## APPENDIX II.

128. Return by Mr. G. W. Bacon, Officiating Civil and Session Judge, Saharunpur, inclosed therein.
129. " Mr. J. Lewis, Acting Magistrate, Saharunpur, ditto.
130. " Mr. E. F. Franco, Magistrate, Mozuffurnuggur, ditto.
131. " Mr. R. C. Glyn, Officiating Judge, Meerut, ditto.
132. " Mr. R. N. O. Hamilton, Officiating Magistrate, Meerut, ditto.
133. " Mr. M. H. Tierney, Magistrate, Bolundshahur, ditto.
134. " Mr. T. Metcalfe, Commissioner, Delhi, ditto.
135. " Mr. H. Fraser, Judge, Delhi, ditto.
136. " Mr. A. W. Truscott, Magistrate, Centre Division, Delhi, ditto.
137. " Mr. C. Gubbins, Officiating Magistrate, Gurgaon, ditto.
138. " Mr. A. Fraser, Magistrate, Rohtak, ditto.
139. " Mr. J. Lawrence, Magistrate, Paniput, ditto.
140. " Mr. M. R. Gubbins, Officiating Magistrate, Hurrana, ditto.
141. Letter from the Secretary Law Commission, dated 5th April, 1839, to Judge of Cuttack, on subject of sale of Slaves to levy judgments.
142. Reply thereto, dated 1st May, 1839.
143. Letter from the Secretary Law Commission, dated 5th April, 1839, to Magistrate of Central Cuttack, on subject of a Proclamation issued by Mr. Ker, the Commissioner, and an order passed by Mr. Forrester, Magistrate of the district.
144. Reply thereto, dated 19th June.
145. Letter from the Secretary of the Law Commission, dated 5th April, 1839, to the Magistrate of North Cuttack, as to the census of Slave population in that district.
146. Reply thereto, dated 7th May, 1839.
147. Letter from the Law Commission, dated 23d November, 1839, to the Judges of Behar, Patna, and Shahabad, on the subject of the sale of Slaves to levy judgments.
148. Reply of the Behar Judge, dated 18th December, 1839.
149. Reply of the Shahabad Judge, dated 27th December, 1839.

## APPENDIX II.

*from the Secretary of the Indian Law Commission to Registrars of the Courts of Sudder Dewanny and Nizamat Adawlut, Bengal and Agra, dated 10th October, 1835:*

The Indian Law Commissioners having under their consideration, as connected with the preparation of a Criminal Code, the systems of slavery prevailing in India, I am directed to request that the Courts of Sudder Dewanny and Nizamat Adawlut will favor them with information on the following points:

1. What are the legal rights of masters over their slaves with regard both to their persons and property which are practically recognized by the Company's Courts and Magistrates under the Bengal Presidency.

2. And as more immediately connected with the Criminal Code, to what extent is it the practice of the Courts and Magistrates to recognize the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment; what protection are they in the habit of extending to slaves, on complaints preferred by them of cruelty or hard usage by their masters; and how far do they continue to Moosulman slaves the indulgences which, in Criminal matters, were granted them by the Mohummadan Law.

3. Whether there are any cases, in which the Courts and Magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters.

The Act of 51, George III, Cap. 234, and Regulations X. 1811, and III. 1832, specially provide against the importation of slaves by sea or land from foreign countries, and the removal of slaves for the purposes of traffic from one part of the British Territories dependent on the Presidency of Fort William to another: but the only general rule which appears to have been laid down for the guidance of the Courts in other cases of slavery, is that contained in the Construction of Section 15, Regulation IV. 1793, by the Sudder Dewanny Adawlut, in 1793, confirmed by the Governor General in Council on the 12th of April of that year, and fully recognised in the subsequent Resolution of the Honorable the Vice President in Council dated the 9th of September, 1827, in the discussions which arose regarding the intent and application of the Act of Parliament above referred to.

By that Construction it was determined, that the spirit of the rule contained in Section 15, Regulation IV. 1793, for observing the Mahomedan and Hindoo Laws in suits regarding successions, inheritance, marriage and caste, and all religious usages and institutions, was applicable to slaves, though not included in the letter of it; the above-mentioned Section, therefore, with the additional provisions in Section 6, Regulation VII. 1801, actually constitute the Law by which the decision of the Courts, in cases of this description, is directed to be regulated.

2. With regard to the Mahomedan Law, the nature of the services which a master is entitled to demand from his slave, the summary correction with which he is justified in enforcing that right, and the liabilities of the master for mal-treatment of his slave are stated in the 2d, 3d, and 4th replies in case 2, Chapter 8, of Macnaghten's Precedents. Adverting however to the case of Nujoom-oon-nisa reported at page 55, vol. 1, of the Nizamut Adawlut Reports, it does not appear to the Commissioners by what Law the Courts were guided in ordering the emancipation of Zuhorun, when it would seem by their Circular letter dated the 27th April, 1796, and the 4th reply in case No. 2 of the Precedents above referred to, that mal-treatment is not legally a sufficient cause for emancipation, and that the ruling power has, on that ground, no right or authority to grant it.

3. With respect to the Hindoo Law of Slavery, as described in the outline drawn by Mr. H. T. Colebrooke, and quoted in the 8th Chapter of Macnaghten's work on Hindu Law, the power of the master over the slave under that law would appear to be unlimited. "It," (viz. the Hindu Law) it is stated, "treats the slave as "the absolute property of his master, familiarly speaking of this species of property "in association with cattle under the contemptuous designation of bipeds and "quadrupeds. It makes no provision for the protection of the slave from the "cruelty and ill treatment of an unfeeling master; nor defines the master's power "over the person of his slave; neither prescribing limits to that power, nor declaring "it to extend to life or limb;" and the author of the principles and precedents, in a note animadverting on the Bywusta of the Pundits of the Sudder Dewanny Adawlut in which they assigned limits to the master's power over the person of his slave, remarks "that in the delivery of their opinion they were probably guided "by reason, rather than express law, or perhaps from the analogy of the rule with "respect to servants." Yet in the next page but one, of the same excellent work, he affirms, that the "Courts of justice are accessible to slaves as well as freemen, "and a British Magistrate would never permit the plea of proprietary right to be "urged in defence of oppression." Mr. Colebrooke in his observations, cited by Mr. Harington at page 763, of the 3d volume of his Analysis, remarks—"But "although the Hindoo and Mahomedan Laws have not provided for the protection "of the slave from the barbarity of an inhuman master, the Regulations passed by "the British Authority have done so, by expressly annulling the exemptions from "Kisas or retaliation for murder, in the case of a slave, slain by his master. "Since the period (nearly fourteen years ago) when that Regulation\* was enacted, "slaves have not been considered as out of the protection of the law, either "in cases of murder or of barbarous usage; and instances have occurred of "recourse to the Officers of Police, for redress against the cruelty of a master in "cases falling short of that extremity."

4. Mr. Colebrooke's Exposition of the Mahomedan Law as to the unlimited power of masters over their slaves would not appear to be an exact one; but the Commissioners having no reason to doubt that the practice of the Courts and Magistrates is correctly stated in both the above extracts, are desirous of ascertaining by what law or principle the mal-treatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the Criminal Courts.

5. They would also wish to know with reference to Section 9, Regulation VII. 1832, whether the Courts would support the claim of a Mussulman master over a Hindoo slave, when according to Hindoo Law the slavery is legal, but according to the Mahomedan Law illegal, and vice versâ. Also slavery not being

sanctioned, by any system of law which is recognized and administered by the British Government, except the Mahomedan and Hindoo Laws, they are desirous of being informed whether the Courts would admit and enforce any claim to property, possession, or service of a slave, except on behalf of a Moosulman or Hindoo claimant, and against any other than a Moosulman or Hindoo defendant; and if so, by what Law or principle the Courts would regulate their decisions in such cases?\*

*Answer of the Register of the Sudder Dewanny and Nizamut Adawlut, No. 2.  
Calcutta, dated 3d of March, 1837, to Secretary to the Indian Law  
Commission.*

2. The records of the Court, not containing the information required by the Commissioners, a copy of your letter was forwarded to the Commissioners of Circuit, Civil and Session Judges, Additional Judges, Magistrates and Joint Magistrates on the 13th November 1835, requesting those functionaries to furnish the Court, at their earliest convenience, with such observations on the several points embraced in your communication tending to throw light on the subject under enquiry, as might be suggested to them by a perusal of your letter, and to state, at the same time, the practice of their Courts with regard to the different cases noticed therein.

3. The constant pressure of various important duties has been generally assigned as the cause of the delay that has taken place in replying to this Circular; the Court have however now the honor of forwarding for the information of the Commissioners, eighty-three original letters on this subject, as per list marked\* A, together with a general abstract\* of the reports containing a list of the documents deserving special reference, and a note on the whole by the late officiating Register of the Court Mr. H. Torrens. The Court have also directed me, to forward to you, for the purpose of being laid before the Law Commissioners, a Minute recorded on the subject by Mr. T. C. Robertson on the 10th November, 1835.

\* These are  
Appendix.

4. From these various documents, the Law Commissioners will observe, that "slavery" (as is justly remarked by Mr. Torrens,) "its laws and local usages are, in Bengal, one strange mass of anomaly and contradiction. In some districts it is so prevalent that slave-holding and property may be almost considered synonymous: in others, it is either almost extinct, or nearly unknown."

5. Under these circumstances, the answer to the first question, as noted in margin,† must depend almost entirely on local usages of the district and on the good sense and good conscience of the presiding officer. As observed by Mr. Robertson, "No specific rule having ever been laid down, it has hitherto been left to the discretion of every judicial functionary to dispose of such cases as might be brought before him according to his own judgment, taking the Mahomedan and Hindoo Laws on some occasions, but more generally, the habits and feelings of the people with his own sense of right, for his guides."

† See Note  
dix.

\* This letter as addressed to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, at Alláhábád has a few verbal differences of no importance.

6. The question may however, the Court believe, be answered generally by stating that, in the Civil Courts the right of a master over the person and property of a slave would be duly recognized, if proved, agreeably to the doctrines of the Mahomedan and Hindoo Laws: and in the Criminal Courts, should a slave, admitted to be one, quit his master's service, or neglect to perform his ordinary work, he would be liable, on conviction, to summary punishment for the same.

7. The reply to the second query must also, the Court observe, be general. A master would not be punished, the Court opine, for inflicting a slight correction on his legal slave, such as a teacher would be justified in inflicting on a scholar, or a father on his child: but no act of hard usage or of cruelty would be permitted. Under such circumstances a plea that the complainant was the prisoner's legal slave would not constitute a proper ground for mitigation of punishment, and the master would be punished for the assault, under the general Regulation of Government.

8. In like manner, a slave pleading that he had assaulted or murdered another person under the orders of his master, would not bar a legal conviction of the offence: although the Magistrate, or the Court of Nizamut Adawlut might, under all the circumstances of the case, grant such remission or mitigation of punishment, as to the Court might appear just and proper.

9. With regard to the latter part of this query, the Court have directed me to observe that a slave would be considered equally under the protection of the law with a freeman, as regards complaints of cruelty or hard usage, and that no indulgences, in criminal matters, would be granted to slaves, which might be considered inconsistent with the ends of public justice. Futwahs are not, I am directed to observe, taken by Magistrates, and the Courts of Nizamut Adawlut are competent to set aside any Futwa, and to pass a final sentence, whatever may be the opinion of the Mahomedan Law Officers.

10. In reply to the 3d query, I am directed by the Court to state, that they are not aware of any cases in which the Courts or Magistrates would afford less protection to slaves than to free persons against other wrong-doers than their masters.

11. With respect to the case of Nujoom-oon-nissa, reported at page 55, volume 1, of the Nizamut Adawlut Reports, in which a slave girl of the name of Zuhoorun was emancipated by order of the Court, I am directed to state that there is no note or memorandum annexed to the proceedings, that might enable the Court to inform the Commissioners by what law the presiding Judges, Messrs. Harington and Colebrooke, were guided on that occasion. The Persian record of the trial, having also been destroyed, together with many other documents of a similar nature, the Court regret that they have been precluded from ascertaining the exact nature of the bondage of Zuhoorun. If the girl was a slave, as legally defined by the Mahomedan Law, then the order of the Court directing her emancipation, would appear to have been illegal. If however, on the contrary, the girl was not proved, on the trial, to have been a slave, taken in battle or the descendant of such a slave, then the ruling power would certainly be competent under the peculiar circumstances of the case, as set forth in the evidence, to direct her immediate emancipation.

12. In reply to the query, contained in the 4th paragraph of your letter, in which you observe, that the Commissioners are desirous of ascertaining by what law or principle, the mal-treatment of a Hindoo slave by his Hindoo master would be considered an offence cognizable by the Criminal Courts, I am directed to observe

that the sentences of the Criminal Courts are regulated by the Mahomedan Law as modified by the Regulations of Government. By Section 19, Regulation IX. 1807, the Magistrates are empowered to punish any person subject to their jurisdiction convicted of any Criminal offence, punishable under the Mahomedan Law, or by the Regulations of Government; and under that Section any mal-treatment of a Hindoo slave, by a Hindoo master, would be considered an offence cognizable by the Criminal Courts.

13. With reference to the fifth and last query, the Court after much consideration are inclined to adopt, the views held by Mr. Middleton, the late Judge of Moorshedabad, as contained in the 7th paragraph of his letter under date the 4th February, 1836, as contained in the following extract.

"7. I find it difficult to offer any answer to the 5th question, contained in paragraph 5 of the Law Commissioners' inquiry,—viz. whether with reference to Section 9, Regulation VII. of 1832, the Courts would support the claim of a Mussulman master over a Hindoo slave, when according to Hindoo law, the slavery is legal, but according to the Mahomedan law illegal and "vice versa." The explanatory provisions detailed in that Section, are of recent origin, nor can any cases be traced in the published reports which can directly or constructively be brought to bear on this subject. Until, therefore, the question be set at rest, by some regular suit, appeal, or construction of the Superior Court, a great diversity of practice will probably obtain, in the subordinate Courts by reason of each taking a dissimilar view of the provisions in question. The following would, I conceive, be what the Civil Court *here* would do in such cases. Suppose a Mahomedan to claim the property, possession, or service of another (be he Mahomedan or Hindoo) as his slave, and the latter to deny the claimant's right, the claimant would be required to prove that the person so claimed, is his slave, according to the provisions of the law acknowledged by the claimant, and in default of such proof, his claim would be dismissed and the alleged slave declared free (on the principle that the claimant has no right to that which is denied him by the laws of his own persuasion) and vice versa in the suit of a Hindoo claimant: but in a similar suit brought by a claimant originally a Hindoo and since converted to Islamism, we should, with reference to Section 9, Regulation VII. of 1832, pass judgment in his favour (provided Islamism be proved) that he was entitled to the alleged slave, by succession or inheritance either before or after his apostacy, and that the slave in question was a legal bondsman, agreeably to the Hindoo Law. Also in suits instituted by claimants originally Hindoo or Mahomedan, but at the time of bringing the action professing the Christian or any other religion for the possession of a slave, such slave being proved a legal bondsman according to the law from which the claimant has seceded. I think the claim must, under the section above cited, be maintained. Supposing however a claim to a slave to be advanced by a party neither Mahomedan, Hindoo, or seceder from either of those faiths, I consider the Courts could not uphold such, in that slavery is not sanctioned by any system of law which is recognized by the Government except the Hindoo and Mahomedan laws."

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## MINUTE OF MR. T. C. ROBERTSON.

As I am on the eve of quitting the Court for a time, I think it right to leave on record the few remarks that have occurred to me on perusing the letter about slavery recently received from the Secretary to the Law Commission.

The present is a question, upon which the Government have abstained from legislating, excepting in as far as was necessary to keep pace with those Parliamentary enactments which prohibited the traffic in slaves throughout the British Empire.

With regard to the internal system of domestic servitude, which obtains in India, as in every other part of Asia, no specific rules having ever been laid down, it has been hitherto left to the discretion of every judicial functionary to dispose of such cases as might be brought before him, according to his own judgment,—taking the Mahomedan and Hindoo Laws on some occasions, but more generally, the habits and feelings of the people, with his own sense of right, for his guides.

How wisely the Government have acted in thus abstaining from direct interference with an institution so interwoven with the domestic habits of the people as to render its safe handling an operation of extreme delicacy and difficulty,—may be inferred from the circumstance that during the whole course of my own experience, as a Magistrate, first in the crowded city of Patna, and afterwards for seven years in the large and populous district of Cawnpore, I do not remember a single important case to have come before me, in which I had to decide between a master and a slave. I have no doubt whatever that the experience of most Magistrates will, in this respect, correspond with my own. Occasional cases may of course arise, like that of Nujoom-oon-Nissa, referred to in the 2d paragraph of the Law Commissioners' letter, in which humanity may compel us to interfere: but such are of very rare occurrence and had far better be left to be dealt with separately and individually, than be made the subject of a minute, and (as every man acquainted with the feelings of the people, especially the Mahomedan, upon this head must know that it would prove,) offensive legislation.

The judicial establishments in India are part of the machinery of Government, by and through which our power is maintained, with the slenderest means, over the widest realm that ever yet was held by a similar tenure of conquest.

Of establishments so constituted and so circumstanced, it is perhaps too much to exact in every instance, as if they were mere Courts of law, that they should quote some precise enactment, or some formally recognized code, in justification of their acts.

Wherever the Regulations are silent, it may, I conceive, be understood that the judicial officers of the Indian Government ought to shape their measures, as enjoined in Section 21, Regulation III. 1793, and repeated in Section 9, of Regulation VII. of 1832, in conformity with the dictates of good sense and good conscience; and it was by this feeling, that the Judges of this Court were doubtless actuated, when knowing, as they must have done, that to have replaced the slave girl in the power of her incensed mistress would have, in fact, been to expose her life to the most imminent peril: they took it upon themselves in virtue of that plenary discretion, with which in cases not expressly provided for every high European judicial functionary must, I contend, in a country situated as this is, be held to be invested to order the emancipation of Zuhoorun.

The order in question is apparently at variance with the strict letter of the Mahomedan Law; but that law, has never in any country been literally adhered to;

and the deviation, in this instance, we may rest assured excited no alarm, and has never, in all probability, till the present moment, been made the subject of comment.

The preceding remarks refer to that purely domestic servitude, which it is perhaps a misnomer to call by the name of slavery,—differing as it does entirely in most of its circumstances, from the status to which the same name is in other quarters of the globe applied.

There are however some other modes of slavery in various parts of the country, with which the legislature may with propriety and safety interfere.

The claims advanced by procuresses against poor girls, from whose prostitution they derive profit, are often extremely embarrassing,—advanced as they are under the guise of demands for remuneration for expences incurred in feeding and clothing.

This practice is not, I apprehend, peculiar to India; and it is probable that some thing very like it obtains even in Christian countries. Still I think, that, provision might be made for defeating such suits, by enacting, that the mere proof of a party having derived profit from the prostitution of a female slave, shall be held sufficient to void all claims upon her and to warrant her being declared free.

The other species, to which a legislative remedy may, I think, be applied is that, which branching out of domestic servitude extends itself over the offspring of slaves however numerous.

Much has been done towards abolishing or mitigating this evil, by the decision of this Court dated 28th August 1830, No. 3,204, in which Muhomed Sabir was the original plaintiff, Bolakee and others defendants;\* a translation of which, as well as of the decision which remains to be passed on a similar case now pending in this Court, in which Kurtsee Naraen Deo is appellant and Gowree Sunkur Dutt Rao respondent,† had better, I think, be furnished to the Law Commission. There is a case of this description which arose, at Sylhet, where this species of hereditary slavery is very prevalent, and was decided on during my absence, on leave, from my former office, by the Acting Commissioner of the 17th Division, between the 15th November and the 25th December 1833, in which I know, that an appeal was pending in our Court though what has become of it, I cannot now discover.

The case is a very curious one, and had better be brought to the notice of the Law Commission. ‡ I remember well, that I was on the point of deciding in favor of the alleged slaves, but was induced, by the earnest entreaties of many of the people about me, who protested that such a decision would produce the most extensive injury, to postpone my final order, and during my absence, the case was disposed of as I have above stated. I remember also soon after joining this Court to have met with the head man of the family against whom the decree had been given, who told me that a special appeal had been admitted by Mr. Rattray, and that execution of the decision appealed from, had been stayed. An extract of the cases above alluded to, and of any others that may be found will, I think, prove the most satisfactory reply to the queries of the Law Commission.

\* Reported in Printed Reports for 1830, see Appendix III. No. 2.

† Vide Appendix III. No. 6

‡ The case of Nair alias dictus Narayan Singh pauper appellant, adjudged in the Sudder Dewanny Adawlat on the 4th February, 1836, is alluded to. See Appendix III. No. 7.

There having been little, or no legislation on the subject of slavery, it is very difficult to give a formal answer to questions propounded under a supposition of our having been guided in our decisions regarding it by any precise code of law, while in point of fact, we have been left to steer our own way between the antagonist prejudices of the natives in favor of a long existing institution, and of our own countrymen against any thing that bears a name peculiarly odious to their ears. For my own part, I am not one of those, who look with horror at every form and mode of servitude existing among a people to whose character and habits it must have in it something congenial, or it could not have prevailed so widely or lasted so long. Still even, under its mildest form, I account it an evil, but an evil of the same class as Polygamy; for which moral and religious education may, but legislation never can, provide an effectual remedy.

No. 4.

*Note on Slavery by Mr. H. Torrens, Acting Register of the Sudder Dewanny and Nizamut Adawlut, dated 7th January, 1837.*

The queries entered as per margin\* having been circulated to all Commissioners, Judges, and Magistrates in the Lower Provinces, answers have been received; the substance of which is contained in the annexed abstract,—each opinion being for readier reference numbered, important extracts being occasionally appended, and conflicting opinions contrasted. It would have been difficult for the Judges, to have come to any definite conclusion on the mass of contradictory matter herewith submitted, without the adoption of some such plan as the above. The papers, upon which the annexed abstract has been prepared, are herewith submitted under three heads.

1. Documents, which though abstracted (with one or two necessary exceptions) merit nevertheless special reference.

2. Documents abstracted, save in what relates to the 5th paragraph of Mr. Millett's letter, entered as per margin;† which the Judges may be satisfied, for the following reasons, to omit any direct notice of.

1. Because, it appears on very strong evidence, that the holding slaves at all, as at present, is under Muslim law wholly illegal‡.

2. Because, it is only as singular exceptions that a Hindoo master will be found having a Mussulman slave; and then only on the frailest tenure as an outdoor labourer.§

3. Because, it does not appear that by Hindoo Law, the Hindoo slave of a Mussulman could be considered as other than a Mussulman, or at any rate a seceder from his faith.§

4. Because British subjects, amenable to the Supreme Court, cannot under English Law hold slaves; how, therefore, can be sanctioned an anomaly by allowing them the privilege under any other Code.

5. Because Europeans or others, not British subjects, and liable to local authorities, cannot under their orders hold slaves any more than natives when the

† Sheikh Khawaj and others v. Mahomed Sabir, p. 59. Rep. S. D. A. 1830. See Appendix III. No. 2.

No. 18 Mr. Maxwell.

„ 19 „ Moore.

„ 24 „ Shaw.

„ 32 „ Morris.

„ 38 „ Gouldsbury.

„ 71 „ Martin.

N. B. There is one single instance cited (No. 43) against this principle of which more hereafter.

‡ No. 94 Mr. Shaw.

„ 35 „ Dashwood.

§ No. 24 Mr. Shaw.

\* See Letter from the Law Commission, No. 1.

said authorities, assert the right of manumission as in the cases cited in the margin.\*

For the above reasons, no abstract of opinions on the 5th paragraph has been made independently of the fact, that the said opinions are so vague and contradictory as to lead to no definite conclusion being formed upon them.

\* No. 37 Mr. K. L. Varma  
" 33 " Norris  
" 41 " Mills  
" 60 " Jennings  
Case of Nujoom-oo-Niam  
p. 55, vol. 1, Rept. Nizamut  
Adawlat.

3. Documents fully abstracted or unimportant. The reports most worthy of notice among the whole, seem to be that by the late Mr. Dashwood (No. 45) and that of Mr. C. Smith (No. 23) because they not only contain valuable information, but also suggestions for the mode of abolition of slavery. Next to these may be placed the report by Mr. Cheap, (No. 22) a note on the Indian Slave Trade by Mr. Myers,\* Principal Sudder Amee, (forwarded with No. 25.) Captain Wilkinson's Report (No. 11)—Mr. Shaw's (24)—Mr. Morris's (32) Mr. Stainforth's (48)—Mr. Samuella's (43)—Mr. Hathorn's (61)—all these contain interesting and valuable information.

Noorahadabad.

Slavery, its laws, and local usages are in Bengal, one strange mass of anomaly and contradiction. In some districts it is so prevalent,† that slave-holding and property may be almost considered synonymous. In others it is either almost extinct or nearly unknown. In some,‡ the Civil Courts are loaded with suits for slaves, as that of Mymensingh§ which had on the 30th June 1836, two hundred and fifty such cases pending before it. In others|| the opinion generally prevails that slavery has been abolished, and that no sales are legal, at least of adults. A careful perusal of all the evidence as to the existence of slavery in Bengal, and as to its extent, leads to the conclusion, that slavery as existing in Zenanahs may be found to prevail to a certain degree throughout the whole of Bengal—that the open sale of adult slaves is frequently only in the regular slave districts, that the treatment of slaves, is, (as far as is known,) gentle and considerate, that the ordinary tenure of slaves in other than the slave districts, noted in the margin,¶ is either by purchase of the services for a period or by purchase of the slave when a child, he or she generally absconding when arrived at years of discretion, that the ordinary causes of the effecting such sales are, (1st) debt on the part of the individual selling his service, (2d) prices paid by procuresses for the services of young girls, and (3d) famine. The mild form of slavery prevalent in this country is much insisted on by most of the reporting officers, and there is apparently singular proof of this, adduced in the fact\* that in Tirhoot, a great slave district, no complaint of slave versus master is on the records of the Magistrate's Court. There is however strong ground for believing that the interest only of the slave-holder induces him to treat the slave kindly,† and that when he can coerce, the bondsman or woman is often used most cruelly. That slaves are sometimes devotedly attached to their owners (vide Mr. Meyers' note,) affords no general argument against the above belief. This, therefore, weakens the argument of those who would leave slavery to "wear out in this country under the influence of British rule" without immediate intervention to suppress it because the slaves are generally well provided for. The other reasons put forth by the advocates of continuing the present system are, 1st, that the prohibition to sell human beings would in time of famine cause great loss of human life, and (2d) that the abolition of right to possess slaves would produce great diminution in the value of property to those who own hereditary slaves or slaves for life. In answer to the above, and without referring to the obvious argument of inhumanity, it will be shewn that the present system is so unsystematic and contradictory as to call for some immediate enactment to amend it, and further that this enactment may

† No. 11 S. R. Frontier,  
" 23 and 54 Sylhet,  
" 32-61-34 Behar,  
" 21 Mymensingh,  
" 35-39-64 Tirhoot,  
" 7 Assam.  
‡ No. 13 Burdwan, Mr. Currie.  
No. 15 Hooghly, Mr. Harleston.  
No. 18 Backergunge, Mr. Maxwell.  
§ No. 22.  
|| No. 34 Burdwan, Mr. Mason.  
No. 70 Bograh, Mr. Taylor.  
No. 43 Hooghly, Mr. Samuella, who cites a singular case in point with regard to the slaves of the Dutch at Chinsurah.  
¶ No. 11 S. R. Frontier,  
10 Chittagong,  
9 Assam,  
32 Behar 61-36,  
63 Noorahadabad,  
38 Mymensingh,  
23 Sylhet, 50,  
55 Bhawalpore, 27,  
24 Tipperah,  
39 Tirhoot, 36-64,  
21 Cuttack  
No. 64 Mr. Wilkinson,  
† No. 43 Mr. Samuella,  
" 46 Stainforth,  
" 58 Raikoa.

No. 22 Mr. Cheap and others.

be easily made to provide for the abolition of hereditary and life slavery without endangering loss of life by famine or rendering property insecure. In proof of the anomaly at present prevailing, the opinions of reporting officers as to the principle on which cases, between master and slave should be decided are appended under the following heads.

Principle of English Law or local usage, equity and good conscience.	Native Law.	Native Law with the Regulations, equity and good conscience.	Regulation VII. 1819 in criminal cases and civil as "common contracts."
1. Tucker. 2. Harding. 7. Jenkins. 9. Ricketts. 11. Wilkinson. 13. Harrington. 14. Phillips. 16. Udry. 17. Cook, (Criminal). 23. Smith. 32. Morris. 37. Russell. 39. Gough. 50. Mytton. 59. James. 61. Hathorn. 65. Davidson, (of Gowaiparah.)	8. Pigon, (?) 17. Cooke, (Civil). 24. Shaw. 35. Dashwood, (Civil). 38. Gouldsbury, (do). 54. Money, (do). 55. Dunbar, (do). 67. Elliott cites a precedent in Criminal Court.	15. Dick. 23. Smith, (Civil). 25. Middleton. 28. Wyatt. 29. Nisbet. 34. Hawkins. 35. Dashwood, (Criminal). 38. Gouldsbury, (do). 42. Ewart. 45. Stainforth. 47. J. Grant. 49. Pringle. 52. R. Torrens. 55. Dunbar, (Criminal). 56. Shakespear. 66. Laurell. 71. Martin. 74. Bruce.	3. Steer. 9. Ricketts, (Civil). 62. Luke.

The above opinions on the question in the abstract are however not nearly so anomalous as the practice obtaining in the Criminal Courts of contiguous districts. In Central Cuttack\* it appears, that directly two persons come into the Magistrate's court as master and slave, the latter whether his plaint be proven or not is summarily manumitted; while in Pooree,† the master's right is recognized, and he is allowed "to apply moderate correction summarily." Yet Mr. Mills states his belief, that no Magistrate, in Bengal, acknowledges such a right. Again, six slave-cases are reported from the Patna Magistracy,‡ in five of which the Court manumitted the slave, and in the sixth the slave was made over (after being punished) to his master. The Joint Magistrate of Monghyr, A. D. 1856, punished certain persons as slaves for flying from their masters, and directed their manumission at the expiration of the period of confinement. The order was supported by the Nizamut Adawlut, and the master of course received injury by deprivation of a description of property which the Civil Courts, of adjoining districts, were in the daily practice of acknowledging the right to in regular suits. Instance upon instance of similar anomalies might be cited; but these are nothing, com

contradictory usages of

slavehood. Of the three descriptions of slaves, viz. the *born bondman*, the *life slave*, and the *spell bondman*, the last is by far the most numerous. He is found throughout all the Lower Provinces. He is the *Bundul Shewut*\* of Shérghatty, the *Ajart*† of Hooghly, the *debtart*‡ slave of Tenasserim. He is merely an individual, who sometimes in discharge of a debt, sometimes to realise a sum for his immediate wants, either binds himself to serve for a certain time with food and clothing to work out what is due, or receives his wages for such a term in advance, and in like manner and under like condition works them out. His property is his own. The life slave again in like manner sells himself, but according to Captain Wilkinson§ cannot sell his child even to his own master, is irredeemable, and enjoys his own property. Mr. Morris again considers him redeemable on payment of purchase money with interest to the master. The *born bondman*¶ in Sylhet, Tirhoot, and towards the South East Frontier enjoys his own property. In Behar‡ he can own nothing. In Sylhet, he lives in many instances on *adnár* lands assigned to him and his by his master, under obligation of performing certain service, but paid for extra labour,—this being in fact nothing more than the *man rent* tenure still prevailing in some parts of Scotland, and the Orkneys. In Sylhet, and on the South East Frontier, the offspring of the intermarriage of slaves belongs to the owner of the mother;—in Tirhoot to the owner of the father. In Maimansingh—\*\* where female slaves are married to a *Becakara*, or professional bridegroom, (who usually has many slave wives, and is fee'd for marrying them),—every alternate child is claimable by the owner of the mother. In Backergunge†† where the *Becakara* system also prevails, the offspring of the union is invariably the property of the woman's master. In Sylhet again instead of seeing a bridegroom to procure the marriage of a slave girl, the master receives a fee from the free man who takes her as his wife. As a further instance of anomalous practice, may be cited the doctrine laid down in a Futwa given by a Government Law Officer‡‡, that a Sheea Mussulmán may hold a slave legally under circumstances, which would make the holding by a Soonnee illegal.¶¶ In short, the variety of usage in the case of slavehood is not less remarkable than the discrepancies of practice, and is equally irreconcilable.

Now it is evident, that to abolish immediately all forms of slavery (so called) would be productive,—as observed by Mr. Robertson in his Minute, and in Mr. Dashwood's§§§ report,—of injury so great as to induce none but a pseudo-philanthropist to entertain the idea. Plans for the gradual abolition and for the modification of slavery are proposed by Mr. Smith and Mr. Dashwood, which become the more feasible on admission of the general illegality of slave tenures by Mussulmans. Yet it would not be expedient to deny, at once to the Mussulmán population of Sylhet, Chittagong and Assam, the right of possessing slaves, whom they and theirs have held for years on local usage. In some districts, it would appear, that Mussulmans, who maintain their slaves from a feeling of pride or pity, would not be averse to being relieved from the charge of supporting a class of dependants more idle, and useless, and expensive than hired servants. The plans above alluded to might be perhaps combined with general advantage in some such manner as the following so as to meet all contingent cases.

No. 28, Dinagpora.  
" 36, Burdwan.

\* No. 11 Capt. Wilkinson.

† No. 43 Mr. Samalla.

‡ No. 10 Mr. Stoddell.

§ No. 11.

¶ Nos. 23, 25, 11.

¶ No. 32.

\*\* No. 22.

†† No. 48.

‡‡ No. 43, Hooghly.

§§ No. 26.

¶¶ N. B.—This is perhaps a quibble by an interested Account on the ground that the Sheea not being orthodox need not be considered bound by the strict interpretation of the Law.

1. That a registry of all slaves be made, with specification of their condition whether *born bondsmen*, *life slave*, or *spell bondsman* within three months after a certain date.

2. That non-registry within that period be considered equivalent to manumission.

3. That competent authorities be constituted for the investigation of claims to slaves, with power to manumit summarily, at discretion, and to decide disputed cases of service purchase.

4. That from the date above-noted, the right to possess (slaves hereditarily) *born bondsmen* shall cease: adult slaves (born bondsmen at that time) to have the power of redeeming themselves at a certain rate,—failing which they will be considered in the light of *life slaves*: children (born bondsmen) at that time to be free on arriving at years of discretion.

5. That from the date above-noted, the practice of self-sale or procuring the sale of others as *life slaves* be declared illegal, and punishable by fine and imprisonment: adults (life slaves at that time) to have the power of redemption of service;—failing which, they must continue to fulfill their contract: children (life slaves at that time) to be free on arriving at years of discretion.

6. That the practice of *spell-bonding* for a period,—in the case of adults, of not more than ten years, and in that of children (under ten years of age,) of not more than fifteen years,—be, from the date above-noted, legalised,—the act of bonding, the sum paid, etc. etc. being duly registered, and the bondsman having power to redeem his services by repayment of the sum with interest at any time within the period of his bondage.

7. That the law for relations between the *spell bondsman*, and the purchaser of his service be that of master and servant.

8. That the *spell bondsman* shall be entitled to renew his term of bondage on receipt of the money, purchasing his services, in presence of the registering officer.

9. That on proof of the purchase of a woman's services, for the purpose of prostitution, on this principle the recovery of the purchase money be barred, and a fine of equal amount with it levied on the purchaser.

10. That the above enactment be general for all castes and classes throughout the Presidency of Bengal.

The above propositions are based upon the necessity of recognizing the rights of present slave proprietors, and upon the expediency of providing some means of self-support to the poorer classes during time of famine; and they are made on a mere extension of the *man rent* principle above alluded to. According to the original tenure, the labor of the servitor is the rent of the land he enjoys. According to the one above proposed, it is the interest of the money advanced for his services. When it is suggested, that on redeeming his service he should pay back his advance *with interest*, the intention was simply to prevent by a sort of tax the entering into contracts idly, to the injury of the parties purchasing labor (as they imagine) for a certain fixed period.

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*Answer of Mr. Henry Ricketts, Commissioner 19th Division, Balasore, dated 26th June 1836, to the Register to the Nizamut Adawlut, Calcutta.* No. 5.

In this Province, masters claim a right of ownership over their slaves. They are bought and sold, and are the subject of Civil suits in the Court like any other property; but a complaint of cruelty made by a slave against his master would be admitted, and if proved the master would be punished,—the relation of master and slave not being considered a ground for the mitigation of punishment. In the case of a slave sold to a new master, if unwilling to leave his former abode, compulsion on the part of the new master would not be allowed.

There is a vast number of slaves in this Province. I had a list of upwards of seven thousand within the jurisdiction of one thannah of the Balasore District, but by the Criminal Court they have always, I believe, been treated in every respect as free men without any reference whatever being had to the Hindoo or Mahomedan Law respecting them.

*Answer of Mr. J. C. Brown, late Judge of Zillah Cuttack, dated 23d November, 1836, to Register to the Court of Sudder Dewanny Adawlut, Calcutta.* No. 6.

2. I do not recollect having had a single suit before me during the period of my being in office there,\* for slaves. But that slavery exists in Orissa there can be no doubt. The transfer, I was given to understand, was made more in the way of a lease for a limited period, than a sale: and individuals have been known for a specified sum to bind themselves and their heirs to others for eighty or ninety years, engaging at the expiration of that period, if the sum advanced be not repaid together with all expences, incurred by the lessee, to continue in servitude. During a scarcity, children are frequently sold for trifling sums, by their parents: but it is well known that such sales are not binding on the individuals thus disposed of. It often occurs, therefore, that when they arrive at the age of eight or ten years, they leave their purchasers, who have no remedy and are obliged to put up with the loss. This though is seldom very great as two or three Rupees are (and I have heard as low a sum as twelve annas) given for a child, the price varying according to the age and appearance and often being regulated by the sex.

\* Cuttack.



No. 7.

*Answer of Mr. H. V. Hathorn, Officiating Judge, Zillah Cuttack, dated 30th December 1836, to Register to Sudder Dewanny Adawlut, Fort William.*

2. The accompanying Statement exhibits the total number of suits instituted since a Court for the administration of Civil Justice was established at Cuttack.

3. It will be observed that there have been only nineteen actions brought relative to slavery in the course of thirty years; and none of which were disposed of "on their merits"; and these few applications, it will be seen, were made when the Court was first opened in the years 1805, 6 and 7 A. D.

4. I am informed, notwithstanding, that slavery, in Cuttack, is extremely prevalent; and which may be ascribed to,—the unimportant trade and manufactures in Orissa,—the general poverty of the people,—and the limited intercourse with other districts.

Slaves, in Cuttack, may be divided into five classes as follows—

1. The children of indigent parents, whether Hindoos or Mussulmāns, sold in time of scarcity.

2. The female children of the following castes,—viz. of Mahtes (or writers) Khundaits, Shukar faroshes, Gowalahs, Chasas, Rajpoots, Duroodghurs, Ahungers, Bidoors, Patarahs and Potlee Baniahs,—sold by their parents to Luleāns and Māhareāns as public singers, and dancers, and for purposes of prostitution. The Luleāns are common bawds who make no distinction of sects or caste in contradistinction to the Mahareāns or Deodasees who restrict their traffic to Hindoos and are admitted to the temple of Juggernaut, at Pooree.

3d. The illegitimate children of Hindoos by women of a lower caste.

4th. Slaves peculiar to Orissa denominated "Purjahs", (signifying subjects, tenants, or renters) and who are restricted to the castes of Hujjam, Dhobee, Kewut, Gohar, Rahre, Pan, Kundra, Koomar, Mehter, Baoree, Tantee, Dome, Bagtee and Chumar, (toddy-sellers, and tar leaf mat-makers.) They are to be found moreover only in some of the Northern Purgunas of Cuttack. These Purja slaves sell themselves and their whole families to either Hindoos or Mussulmāns for a pecuniary consideration, rendering themselves amenable, for the service of their profession, until the purchase money is repaid. The subsequent births, in such slave families, also become the master's property, and these slaves are sold, pledged, and let out to hire. The issue of marriages between the male Purja slave of one master and the female slave of another, does not fall to the latter (*partus sequitur ventrem*) but is divided equally between the two masters; and, in the event of an uneven number, half the estimated value of the odd slave is given by the master who keeps the slave. These Purjas, it is to be observed, do not, by selling themselves, forfeit their caste; as they live and take their meals separate from their masters and retain throughout servitude, their hereditary possession.

5th. Poor families, whether Hindoos or Mussulmāns, who, in seasons of calamity, offer themselves and their children as slaves to the more wealthy, without compensation, merely for the sake of maintenance. These may be considered slaves at will, being at liberty to quit their masters at pleasure: as long however as they remain and get food and clothing, so long they are obliged to work. This description of slave is understood to have lost caste by this voluntary act of bondage.

5. In explanation of the circumstance of no suits relating to the legal rights of masters over their slaves having been instituted in this Court since 1807, and the few prior to that date having been either annually adjusted or nonsuited for neglect of the party, I may add that a general supposition appears to have existed in Cuttack, that the civil and criminal functionaries were obviously averse to entertain any cause of action or criminal proceeding whereby the system of slavery was recognized: this has probably influenced some whilst the uncertainty whether slavery was or was not sanctioned by law may have prevented others.

*Statement of Suits, instituted in the Civil Court, at Cuttack, relating to Slavery, from  
5th September, 1805, to 30th December, 1836.*

Number of Suits.	Description of Parties.	Substance of Suits.	By what Court decided—with date of decision.	How disposed of.
404 ...	{ Master versus Slave, }	To recover his Lawful Slave, {	Sudder Aumeen, 6th December, 1806,	{ "Non-Suited," not being considered cognizable under the Regulations in force.
474 .....	Ditto, .....	Ditto, .....	Ditto, 12th November, 1806,	{ A "Razeenama" entered by the Master, —the Slave having given himself up.
536 .....	Ditto, .....	Ditto, .....	Ditto, 16th January, 1807,	{ "Non-Suited," in consequence of the Plaintiff containing three separate causes of action.
538 .....	Ditto, .....	Ditto, .....	Ditto, 15th December, 1806,	{ "Razeenama" filed by the Plaintiff; the Slave having given himself up.
559 .....	Ditto, .....	Ditto, .....	11th October, 1806,	{ "Dismissed" in consequence of Plaintiff's neglect to proceed.
623 .....	Ditto, .....	Ditto, .....	4th December, 1806,	{ "Razeenama," the Slave having given himself up.
664 .....	Ditto, .....	Ditto, .....	Ditto, 13th April, 1807,	{ "Non-Suited," the Plaintiff embracing several distinct causes of action.
741 ...	{ Purchaser versus Former Master, }	Ditto, .....	Ditto, 9th May, 1807,	{ Non-Suited, as the Slave was not present when the engagement between the parties was entered into. The purchaser ordered to sue for the recovery of his Money.
753 ...	{ Master versus Slave, }	Ditto, .....	Ditto, 31st May, 1807,	{ The Plaintiff failing to proceed,—the Suit was dismissed.
826 ...	{ Purchaser versus Possessor, Master versus Slave, }	Ditto, .....	Ditto, 2d July, 1807,	{ Ditto ditto ditto.
908 ...	{ Master versus Slave, }	For recovery of a Slave, .....	Ditto, 30th January, 1807,	{ The Slave* have given himself up, the Suit was disposed of by Razeenama.
1309 ...	Ditto, .....	Ditto, .....	Register, 2d May, 1807,	{ Ditto ditto ditto.
2342 ...	{ Pledger versus Pledgee, }	For amount Debt on account of which a Slave was received in pledge,	Sudder Aumeen, 6th February, 1808,	{ The amount claimed having been paid, the Suit was amicably adjusted.
3315 ...	{ Purchaser versus The Slave's Father, }	For the value of a Slave, the child having been taken away by it's parent,	Ditto, 8th December, 1808,	{ Ditto as above.
3601 ...	{ Master versus Slave, }	For Money of a Slave,	Ditto, 15th May, 1809,	{ Non-Suited for neglect.
1654 .....	Ditto, .....	To get back a deed of contract for the hire of a Slave.	Register, 25th July, 1807,	{ The Cause of Action having arisen in 1792 A. D., the Suit was dismissed.
1687 .....	Ditto, ...	For the recovery of a Slave,	Ditto, 25th July, 1807,	{ Struck off the file in consequence of Plaintiff's neglect.
1705 ...	Ditto, .....	Ditto, .....	Sudder Aumeen, 29th July, 1807,	{ The Slave having given himself up, the Master filed a Razeenama.
1737 .....	Ditto, .....	Ditto, .....	Ditto, 16th September, 1807,	{ Dismissed on account of default.

*Sillakh Cuttack, the 30th December, 1836.*

(Signed) **H. V. HATHORN**, Officiating Judge.

\* Sic origia l.

## APPENDIX II.

87

*Answer of Mr. James Grant, Acting Magistrate of Balasore, dated 1st February 1836, to Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.* No. 8.

2. I am unable to state, what the practice of this Court has been with regard to the different cases noticed in Mr. Millett's letter; as the records of this office furnish no cases of the kind.

*Answer of Mr. T. C. Scott, Magistrate of Balasore, dated 5th of July 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.* No. 9.

I have the honor to state that the records of this Office afford no cases in point; at the same time, there is little doubt that any assistance would be rendered by the Magistrate, on the institution of any complaints of this nature by the soi-disant proprietor or owner of slaves.

2. I have only very recently joined this district. I am however given to understand, that slavery prevails in it to a very trifling extent,—with the exception of one Thannah called Buddruck, an extensive tract of country between this and Cuttack. In this division, one-fourth of the population (Hindoo) is said to be slaves, descendants of people of this description under the Marhatta Government; they are however retained in willing servitude, and with their own consent are privately transferred from one master to another like any other species of property, their masters being aware they could not keep them against their wish, consult their interest in treating them well, and their condition is in no way inferior to people enjoying a perfect freedom. The distress occasioned by the late storms has, I believe, augmented the number of this class of people.

*Answer of Mr. M. Mills, Officiating Magistrate of Zillah Cuttack, dated 11th of January, 1835, to the Register of the Nizamut Adawlut, Fort William.* No. 10.

2. I think, I may with safety assert that the Magistrates of Bengal never recognize the masters to have a legal right over their slaves with regard to their person. The practise in this Court which I find has been adopted by every Officer that has presided in it, is to punish the master and manumit any slave who prefers a complaint against him for cruelty, hard usage, or has any other reason for wishing to leave him. It does not signify whether the ill treatment of the master, or alleged cause of dissatisfaction on the part of the slave is substantiated or not. Every Magistrate has passed an order on all such cases to the following purport. “We do

"not recognize slavery, you may go where you please, and if your master lays violent hands on you, he shall be punished." I am unable to say by what law, especially as regards the menial treatment of a Hindu slave by his Hindoo master, the cognizance of such offences is acknowledged. There is no specific enactment prohibiting interference in these cases, in the absence of which, I believe, the Magistrates consider themselves authorized to interpose their authority, demanded as it is, by every feeling of humanity and justice.

3. As regards the property a slave may acquire, while in a state of bondage, I presume that our Courts would recognize the master's claim. I know of no precedent, and I give my opinion on the subject with much deference as I have had little practice in the Civil Court.

4. In Cuttack, slavery exists, but, as in all places where the law makes no distinction in its mildest form, indeed where it is known that the authorities will not recognize the rights they exercise and claim it cannot be considered any thing more than voluntary servitude.

No. 11. *Answer of Mr. James K. Ewart, Officiating Joint Magistrate of Pooree, dated 17th June, 1836, to the Register of the Nizamut Adawlut, Fort William.*

I have the honor to state that the principle upon which slaves have been treated in this Court, either as prosecutors or defendants, is precisely the same, as in the case of free persons, that is to say, a master, whether Hindu or Mussulman, is considered to have a right to his slave's labor, and to apply summarily such moderate correction as is necessary. If it is proved that a master has exceeded that limit, he is liable to punishment. The master is likewise held bound to furnish good and sufficient food and clothing to his slave.

No. 12. *Answer of Mr. Abercrombie Dick, Judge and Session Judge of Zillah Midnapore, dated 25th March, 1836, to the Register of Sudder Dewanny and Nizamut Adawlut, Fort William.*

1. We must practically, because thus only can we legally, recognize those rights between master and slaves which are recognized by their own laws, Mahomedan and Hindoo, not modified by the Regulations of our own Government.

2. The Mahomedan Law is the *Criminal Code* of the Land modified by our Regulations. Conformably to it, therefore, should be the practice of our Courts. It will however be seen in a case hereafter cited, that a very liberal interpretation has been given to the modifications, in favor of humanity by Mr. Colebrooke and Mr. Harington, two of the ablest judicial officers, India ever possessed.

3rd. I know of none, and can conceive none.

The next question to be answered is—By what law the Court were guided in ordering the emancipation of Zuhoorun? There is no express law, or rather Regulation to sanction this; but we may infer which Regulation guided the two Judges who passed that sentence. One of these two able Judges, was Mr. Colebrooke, and he was guided no doubt by the liberal construction he has put upon Regulation VIII. of 1798, quoted by Mr. Millett from the Analysis of Mr. Harington who was the other Judge, that sat with Mr. Colebrooke in the case of Zuhoorun. Thus then Regulation VIII. of 1798, seems to have been the guide in that sentence; and it was enacted subsequent to the Circular Order of April, 1796.

The above advertence to the opinion of Mr. Colebrooke, cited by Mr. Harington, will enable us to answer the next question put by the Law Commissioners. By what law or principle, the mal-treatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the Criminal Court? The Mohumadan Law, as modified by the Regulations, and not the *Hindoo* Law is our *Criminal Code*: and the above liberal construction put on Regulation VIII. 1798, points out the Law and the principle on which the practice of the Courts is founded.

On the above Construction, and Regulation, we may also reconcile the apparent inconsistency, noticed in Mr. Millett's Letter of the author of the Principles and Precedents of Hindoo Law.

In reply to the question put in the last paragraph of Mr. Millett's letter, I answer to the first, yes, most certainly, if the claim of the master be just: because it is expressly declared in the cited Section of Regulation VII. 1832, that the Laws of those (Mohamedan and Hindoo) religions, are not to operate to *deprive* of property parties entitled to it. To the 2d question, I answer no,—most decidedly: for, the only laws which admit such a claim, do not extend to such a claimant, and neither “justice” nor “equity” nor “good conscience” can admit of such a claim. To the third question, I again answer no, *though not so decidedly*: because in the cited Section, it is declared those rules were designed for the *protection* of the rights of such persons, (i. e. bonâ fide professors of the Hindoo and Mahomedan religions) not for the *deprivation* of the rights of *others*. It must be confessed the Section in question, is sufficiently indefinite, and comprehensively latitudinarian.

*Answer of Mr. J. Stainforth, Officiating Magistrate Zillah Midnapore, dated 4th February 1836, to the Register of the Nizamut Adawlut, Fort William.*

No. 13.

2. I beg to state that it has been uniformly the practice in the Criminal Courts in which I have presided, to extend the same protection to a slave in all cases as to a freeman, leaving any question of property that might arise to be determined by the Civil Court.

3. Having lately assumed charge of this office, I am unable to state exactly the practice that has obtained in this district; but I forward copy of a letter on the subject from the Joint Magistrate, Mr. D. Money.

No. 14. *Answer of Mr. D. J. Money, Acting Joint Magistrate, dated 30th January, 1836, to Officiating Magistrate of Midnapore.*

During the time, I have acted as Joint Magistrate, only two cases of slavery have come under my notice. The first was the murder of a slave girl by her master, a Zemindar named Panchanund Chowdry. She was sent to Midnapore in a dying state, and had just strength sufficient to make, before her death, a clear and distinct confession of all the circumstances connected with the murder. I was obliged to make over the case to Mr. Cardew, the Acting Magistrate of Hidgelee, as the crime was committed in this district, and I have never learned the result of the trial. The second case was a theft committed by a Mosulman slave girl on the property of her master who complained against her in the Criminal Court. She was sentenced to imprisonment for three months; after the expiration of which period, although she had not served her stipulated time, I gave her freedom at her own desire and by consent of her master.

There are, I believe, some cases among the records of the Foujdary Office, from which the system of slavery in this district, and the practice of the Court with reference to it, might be culled. I am not aware of any legal rights that masters possess over their slaves with regard either to person or property that have been or could be practically recognized by the Magistrate, nor do I think the relation of master and slave could justify an act which in another would be punishable, or be even admitted in mitigation of punishment. The complaint of a slave merits, and would receive the same attention, of course, as that of a free-man, whether it be made against his master, or any other individual.

I have not by me the Regulations quoted by Mr. Millett, but I recollect considering them deficient on the subject of slavery. There was too much left to the discretion of the Magistrate. There was no clear explicit rule by which a Magistrate could be unhesitatingly guided in his decision, embracing every possible case that could be brought before a Criminal Court by a Musulman or Hindoo master or slave. With regard however, to the mal-treatment of a slave by his master, whether Musulman or Hindoo,—supposing a Magistrate should not consider it as an offence cognizable by the Criminal Court on the principle of justice,—he would not, I think, outstep his duty in trying the case and inflicting punishment, under the sanction of such Regulations as authorize, without making an exception, the punishment of any one who maltreats another.

The 5th paragraph of Mr. Millett's letter refers, I conceive, more particularly to the Civil Court. The fact, upon which the question in the first part of it is put, could hardly occur in this district. A Hindoo master keeping a Musulman slave, or a Hindoo slave serving a Musulman master in any household capacity, would lose caste. The claim, therefore, by either party, is not likely to be made.

Slavery scarcely exists in the Midnapore jurisdiction, and where it does exist, it can hardly be called slavery. There is generally a written agreement between the master and slave, attested by witnesses, the latter stipulating to serve the former a certain period, the former engaging to provide food and clothing for the latter during his service. The property of the slave at his death goes to the nearest of kin and only to the master in the event of his having no relation.

Soon after the late gales, which laid waste a great part of the district and caused a dreadful loss of life and property, there was a constant sale of little children. It has now happily ceased, but occasioned by such harrowing circumstances and conducive as it was in many instances to the preservation of infant life, it could hardly be considered a crime and need not be mentioned under the head of slavery.

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*Answer of Mr. H. M. Pigon, Commissioner 18th Division, Jessore, No. 13*  
*dated 9th July, 1836, to the Register of the Court of Sudder*  
*Dewanny and Nizamut Adawlut, Fort William.*

3. As Register and Assistant to the Magistrate, as Judge and Magistrate, and as Judge, I have discharged judicial functions during a period of twenty-nine years in Bengal and Orissa, and of two in the Upper Provinces, and during that time I have never met with a single slavery case brought in any shape before the Criminal Court, and only of one instance before the Civil Court: in that case the claim was for the recovery of a whole Hindu family of slaves who had deserted their master's estate, which suit, under the exposition of the Hindu law given by the Pundit of the Court, was decreed in favor of the plaintiff.

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*Answer of Mr. Evelyn M. Gordon, Officiating Commissioner of No. 16.*  
*Circuit, 11th Division, at Moorshedabad, dated 14th April, 1836,*  
*to the Register of the Sudder Nizamut Adawlut, Fort William.*

I regret to state that not having had any cases in my Court tending to throw any light on the system of slavery prevalent in India, I am unable to supply the information required by the Sudder Nizamut Circular, No. 2973, dated the 13th of November last.

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*Answer of Mr. E. J. Harrington, Officiating Judge, Zillah Hooghly, No. 17.*  
*dated 2d February, 1836, to Register of the Court of Sudder*  
*Dewanny Adawlut, Fort William.*

I have the honor to state that the result of the inquiries which I have instituted upon the subject both by reference to the records of the Civil Court, and communication with persons whose intelligence and general knowledge assured me that I might reasonably expect to ascertain from them, the true state and condition of the class of persons denominated slaves, has convinced me that slavery, or that state of



subjection which we hear of as existing in this country previously to the rule of the Company, has ceased in this district.

Our laws, although recognizing slavery, would neither permit cruelty, nor sanction or forbear to punish cruelty whether exercised by a master towards his purchased or hereditary slave : or by one free man towards another. The disposition on the part of Judges, Magistrates and persons possessing authority since the establishment of our Government in India, to protect slaves from injustice and suffering,—evinced by their orders and general conduct,—combined with the clearly to be discerned spirit of all our enactments, considerate to provide security and good treatment to every class, have gradually but powerfully contributed to this end;—until at last the few persons, who have not acquired positive emancipation, are as happy and secure from ill treatment, as persons who are acknowledged free and have never suffered slavery.

Unless a master should be empowered by law to exercise coercion of a severe nature towards his reputed slave, and that redress for ill treatment should be denied to a slave on his preferring a complaint in the Magistrate's Court, I conceive that slavery must decline and at last cease.

In this district, no civil suits regarding the right to slaves by purchase or inheritance have occurred, since its constitution ; a fact, the most strongly corroborative of the impressions which I have received. Excepting the district of Mymensingh,—there is not one, in which I have been employed, where slave-cases often occurred, either in the Court of the Judge or the Magistrate. In Mymensingh, (I speak of nearly twenty years ago,) they were frequent ; and families of slaves have been allotted like other property by division among the descendants of their deceased master, in the Judge's Court, and in the Magistrate's Court. Whenever a master has complained that his slave has been enticed away, or has absconded, without justifiable cause of complaint, the Police have interposed under the authority of the Magistrates and have compelled the slave to return : but the return has rarely been productive of advantage to the master, because the slave discontented and sulky, generally refused to yield that cheerful and active obedience which could render his services really valuable, and the master could not be upheld in the exercise of the severe coercion necessary to subdue his stubborn spirit,—such a power being liable to constant and dangerous abuse. If the master could by mild treatment, (as would sometimes happen,) succeed in conciliating the slave and make him feel, that by adherence to his service, he would promote his own benefit and happiness,—of course a different and much more favorable effect would ensue.

The slaves in Mymensingh, and in this district generally, are persons who either sold themselves, or were sold by their parents in times of scarcity to masters capable of providing them with support, which they could not otherwise procure : and the sale, in addition to a small amount of purchase money, seems rather to have been, or ultimately to have become, a condition of service to be remunerated by support and good treatment on the part of the master. The obligations of these contracts were frequently well respected, and I have often observed that the slaves have become the attached and confidential servants of their masters ; but how easily relief from bondage might be obtained, may be easily discerned.

Questions regarding the caste of slaves have never come under my observation ; and, I believe, that the reason of their not being advanced, may be, that persons in the condition of life, to which slaves belong, are rarely scrupulous and seriously attached to any particular persuasion or habit.

*Answer of Mr. E. A. Samuells, Officiating Magistrate of Zillah  
Hooghly, dated 17th February 1836, to Register to the Court  
of Nizamut Adawlut, Fort William.*

No. 18.

2. Slavery in this part of the country, is so entirely of a domestic character, and is so rarely brought to the notice of the Authorities, that it is somewhat difficult to say to what extent it prevails, or with what peculiarities it is attended. From the information, which I have been able to collect upon the subject, I learn that it is only among the Mussulman population of the district that slavery is to be found in any shape whatsoever. Female slaves and young boys (also slaves) are to be found in the families of most Mussulmans of any respectability. The duty of the women appears to consist in a general attendance upon the inmates of the zenana, and that of the boys, in a performance of the lighter and less menial duties of the household.

3. No males of advanced age, are, I understand, to be found in this district in a condition of absolute slavery. There is however a system (very much resembling that of apprenticeship in our own country,) in which a person receives a small sum of money usually from forty to fifty Rs. and binds himself down, frequently in a regular written agreement, to serve as a slave for a certain number of years. A person of this description is termed an "Ajeer," and the practice is said to be extremely prevalent.

4. The records of this office only exhibit three cases in which slaves are in any wise concerned. Two of these are prosecutions for homicide in causing the death of certain slave girls by maltreatment; but as neither of them were proved and the parties were acquitted in both instances, they do not furnish us with any means of ascertaining whether the relation of master and slave has ever been considered as a circumstance which should plead in mitigation of the punishment or not. Never having myself had a case of this description before me, my own experience will not, of course, assist in elucidating the point.

5. The third case is that of Meer Gokun Hossein, servant of the Nawab Akber Ali Khan versus Bodun and Pheko. Charge— the abstraction of two slave girls from the house of the Nawab. The case being clearly proved, the defendants were fined one hundred Rs. each and the girls were ordered to be made over to the prosecutor. They however were extremely unwilling to return, alleging that they had met with constant maltreatment in the house of the prosecutor and prayed that they might be set at liberty. Upon this, the Law Officer was called upon for his opinion as to the course which ought to be pursued; and he having delivered in a Futwa declaratory of the right of the Nawab, as a follower of the Sheea-doctrines, to retain possession of his slaves, the girls were immediately given up to him. The whole argument in the Futwa, it is to be observed, is grounded on the fact of Akber Ali Khan being a Sheea; the document expressly declaring that a Soomee would not have been entitled to reclaim the women. On what particular law or precedent this decision of the Law Officer was founded, I am unable to say, as the Futwa is throughout extremely vague.

6. In this case then, the alleged maltreatment would not seem to have been considered a sufficient cause for emancipation: nor does it appear that any protection was extended to these slaves, or that their complaints, indeed, were ever enquired into. It would not however be fair to judge of the practice of the Court

from one isolated instance. The idea which the natives, in general, entertain of what is likely to be the decision of our Courts in cases of slavery is widely different. I am informed by the old inhabitants of the place that under the Dutch Government, which encouraged slavery, an immense number of persons of that class were to be found in Chinsura; but finding, after the cession, that their new rulers looked with a cold eye upon the right of property which the master asserted in the slave they had generally shaken off their fetters and gone abroad, as free men. So strong, indeed, was the opinion of our disinclination to uphold slavery that I cannot learn that any one ever came forward to reclaim his run away bondsman. Such is still, I have reason to believe, the prevailing idea, on this subject, of the inhabitants of the district at large.

No. 19. *Answer of Mr. J. Curtis, Judge of Zillah Burdwan, dated 18th June, 1836, to the Register to the Sudder Dewanny Adawlut, Fort William.*

I have the honor to state, that the records of this office, do not afford one single case of suits brought forward for the recovery of the services of slaves, and that a state of bondage as formerly recognized in the West India Islands and other British Colonies is, I may say, extinct in this part of Bengal.

No. 20. *Answer of Mr. R. Macan, Additional Judge of Zillah Burdwan, dated 24th June, 1836, to the Register to the Sudder Dewanny Adawlut, Fort William,*

4. Mr. Millett's letter\* appears to embrace two points. The first relating to the persons of slaves: the second relating to their property.

5. By the 3rd paragraph of the letter referred to, it appears that slaves have the same security for their lives† that other natives of India possess, and I would remark, from what I recollect of the practice of a Magistrate's Court, that any ill treatment or cruelty towards a slave, would be punished by every Magistrate in the country with the same severity as in the ordinary cases of the same description between masters and hired servants. In the 4th paragraph of Mr. Millett's letter, the Law Commission wish to know the law or principle by which a Hindoo master would be punishable in such cases in the Criminal Courts. On this subject, I would observe, that the Magistrates generally know very little of either Mahomedan or Hindoo Law, and they very seldom apply to the Molvies or the Pundits of the Courts for Futwahs or Bewustahs. The distinction, therefore, which those laws make between a slave and a free servant would not be recognized by the Magistrates in the petty offences cognizable by them, and if a case should be committed to the Court of Circuit, the Hindoo Law is not binding and the Futwa of a

\* See No. 1 of this Appendix.

Mahomedan Law Officer may now be dispensed with as laid down in the 1st Section of the Regulation noted in the margin.\* Thus the existing laws provide in a great measure for the safety of the lives and persons of slaves. • Reg. VI. of 1832, Sec. 1st.

5. The second point referred to, in Mr. Millett's letter, is connected with the property of slaves. From the situation and circumstances of slaves, they can very seldom acquire much property, but by the 9th Section of Regulation VII. of 1832, as quoted in the 5th paragraph of Mr. Millett's letter, the Civil Courts might, in great many cases, secure to a slave any property which he might be found possessed of; but if a case were brought into a Civil Court, in which the master and slave should be either Mahomedans or Hindus, the laws of those religions would, if strictly adhered to, require that a decision should be given against a slave. In a case as contemplated in the 1st part of the 5th paragraph of Mr. Millett's letter of the claim of a Mahomedan master over a Hindu slave, and *vice versa*, the Civil Courts would certainly avail themselves of the discretion given to them by the Section of the Regulation last quoted, and decide in favor of the slave.

6. With reference to Section 9 of Regulation VII. of 1832, I would remark that,—it is not a rule, which admits of a wide and clear application to Civil suits in general. If the Members of the Law Commission were to enquire into the object, which the framers of Regulation VII. had in view in inserting the clause referred to, they would, I think, find that it was intended to secure,—to persons converted from the Mahomedan or Hindu religion to Christianity, the possession of their real and personal property; for by the law, as it stood before the promulgation of Regulation VII. of 1832, every convert to the Christian religion from either the Hindoo or Mahomedan persuasion, not only forfeited his right of succession to all real and personal property, but he could even be deprived of all hereditary property, which he might be actually in possession of, at the time of his conversion. The law however as laid down in Section 9 is vague and unsatisfactory, and the real object which, it is believed, the framers of the Regulation had in view, is little understood, while the rule can never, as before remarked, admit of a wide and clear application to Civil suits between persons of different nations, and of different religious persuasions.

7. The only point connected with slaves, which is altogether unprovided for by the Regulation, is their actual liberation from the power of a Hindoo or Mahomedan master.

8. In the last part of the 5th paragraph of the letter of Mr. Millett, the Law Commission would wish to know the law or principle, which would regulate the Courts in their decisions on claims to the property, possession, or services of slaves where neither party might be Mahomedans or Hindus. In British India, the professors of the Christian religion, Parsee fire-worshippers, and Chinese-Bhoodites, would be the only persons likely to be the owners of slaves, and any individuals of those religions or of any other persuasion, whether plaintiffs or defendants in the Criminal or Civil Courts, would be required to shew by what law they could claim either the person or property of a slave; and as there does not now exist any law, in India, by which such claims could be supported, the slave would of course have the benefit of the absence of right on the part of masters who might not be Mahomedans or Hindus.

9. In this district, the impression amongst the natives is almost universal, that the existing laws prohibit the purchasing of slaves; and though this is not in reality the case, still all that now remains of the traffic in slaves, is the occasional

purchase of a few children who are offered for sale in times of great scarcity. It is also generally understood that the Magistrates would afford the fullest protection to any slave who should complain of cruelty or ill-treatment on the part of a master.

10. In the Zillah Burdwan, and in a few of the surrounding districts, slavery exists to a considerable extent, and particularly amongst a class of men called Aimadars, or persons holding lands directly from the Government on a low quit rent. The Aimadars are mostly Mahomedans of old respectable families, and they have, according to their circumstances, from one to twenty slaves. Most of these slaves have been born in the houses of their masters, and they are generally the descendants of children who were purchased in the great famine which visited Bengal in the year 1770; while in some instances the slaves have been from father to son for two and three hundred years in the same family.

11. It is a general remark that slaves are more troublesome and more expensive than hired servants, and with the exception of a few slave girls for the female apartments, the Mahomedan masters would not much regret the enactment of any law which might give to their slaves the option of leaving the houses of their masters, or of remaining there as hired servants. At present useless idle slaves are in many instances retained by their masters, merely from a feeling that they ought not to drive away from their house, one born and brought up under their roof; and they know that if they were to do so, their good name would in some degree suffer in the estimation of their friends and neighbours. There is also some consequence and respectability attached in the eyes of the natives to the possession of slaves, and this also induces some individuals to keep them, while it will, at the same time, be almost always admitted, that free servants are more useful and less troublesome than the present race of slaves.

12. Instances of cruelty to slaves are stated by the natives to be very rare indeed, and if chastisement is resorted to, it is not marked by severity, and the general testimony is that slaves in this district are as well fed and as well clothed as free servants who are employed in similar occupations.

13. Throughout the Bengal Presidency, slavery certainly exists to a considerable extent, and though it is seen in its mildest form, yet still it is slavery, and a new Code of Criminal and Civil Law, such as that now preparing by the Law Commission, will no doubt include in its pages, enactments which will secure liberty for the persons, and security for the property, of all slaves throughout the British possessions in India.

No 21. *Answer of Mr. Taylor, Officiating Magistrate of Zillah Burdwan, dated 5th February, 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.*

2. No case, of the nature specified in the several paragraphs of Mr. Millett's letter, or in any way calculated to throw light on the question under discussion, being discovered in the records of the Office, I am unable to state, what is the practice of this Court.

*Answer of Mr. W. H. Elliott, Officiating Magistrate, Bancoorah, No. 22.  
dated 30th April, 1836, to the Register of the Nizamut Adawlut,  
Fort William.*

I regret to state that I do not feel competent to offer any remarks on the subject treated of in Mr. Millett's letter.

2. I can only find one instance, in which the question of slavery has been brought into this Court, and that was one of a most simple nature. In 1830, a person complained that a female slave, whom he had made over to his sister as her private attendant, had been enticed away from the house by a Burkundaze. This being proved, the slave was restored to her mistress and the Burkundaze reprimanded.

*Answer of Mr. J. H. D'Ogby, Civil and Session Judge of Zillah No. 23.  
Birbhum, dated 7th of November, 1836, to the Register of  
the Court of Sudder Dewanny and Nizamut Adawlut, Fort  
William.*

3. No case, in which slaves are concerned, has ever, as far as I can discover, been brought before this Court.

Section 15, Regulation IV. of 1793, for observing the Mahomedan and Hindoo Laws in suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions is rendered applicable to all cases of slaves, although they are not by name alluded to.

Regulation VIII. of 1799 empowers the Courts to pass sentence for heavy offences on all without distinction.

4. I am not aware of any rules which would empower our Courts to make a difference between a freeman and a slave in awarding punishment for crime, nor should I, in such a case, be either inclined to grant indulgences to a slave because he were a Mussulman, or to afford less protection to a slave than to a free-born against wrong-doers.

5. In trifling cases, however, where the parties are either Mussulmans or Hindoos, I conclude the Magistrate should be guided by the Mussulman Law or Hindoo Shastres in allowing chastisement to be inflicted, if it do not amount to barbarous treatment which would bring it under our own Regulations.

6. In answer to the 1st part of the last paragraph of Mr. Secretary Millett's letter I should think that the English Courts would be bound to support the Mussulman's claim to the services of a Hindoo slave because the Pundit would give his *Bewasta* to the effect that slavery is permitted by the Shastres, and with reference to Regulation VII. of 1832, Section 9, the law of the defendant should be acted upon.

Where the Hindoo master sues for the Mahomedan slave, the Mahomedan Law would declare that a Mussulman cannot be a slave unless taken prisoner in battle or the descendant of such; and, therefore, the Hindoo plaintiff must necessarily be cast unless the Mussulman be proved to be a slave of the above description.

This appears to me to be the law as it stands, although I am not prepared to admit that it is justice ; and the practice above stated must be legal in my opinion until a new enactment be made.

7. In reply to the last part of the above paragraph, I should say that as slavery is not sanctioned by any law operating in our Courts except by the Mahomedan and Hindoo, a person neither a Mussulman or a Hindoo could not establish a claim to property, possession, or service of a slave not being a Hindoo or a Mussulman, and that the fact alone of slavery not being recognized by the British Government, (with the above exceptions) would in itself be sufficient to justify such a practice in an English Court of Justice.

No 24. *Answer of Mr. W. J. H. Money, Acting Magistrate, Bimbum,*  
*dated 30th January 1836, to the Register of the Court of Ni-*  
*zamut Adawlut, Fort William.*

1. No cases, connected with masters or their slaves, have occurred in this district, so as to form a practical ground of opinion : but I should say, in the event of such complaints pending in this Court, the legal rights of masters over their slaves with regard to their persons, would be recognized as entire, provided no cruel treatment had been proved against the master : and in the same way with regard to their property, until otherwise decided by the Civil Court, to which the slaves would be referred for redress.

2. The Court would recognize the relation of masters and slaves so far, as to justify the moderate correction of their slaves, and in like manner protection would be extended to slaves on complaints preferred by them of cruel treatment, or of conduct exceeding those justifiable acts of slight chastisement.

3. The Court would not afford less protection to slaves, than to free persons against other wrong-doers than their masters.

4. The maltreatment of a Hindoo slave by his Hindoo master though not specially provided for by any enactment, would, I should say, be considered in the light of a misdemeanor, and punished accordingly by the Regulation, prescribed for such an offence.

5. With reference to Section 9, Regulation VII. 1832, the claim of a Mussulman master over his Hindoo slave, in the case alluded to in the 5th paragraph of the letter from the Secretary to the Law Commission, would not be supported ; but *vice versa* the claim of a Hindoo master would be upheld.

6. The Court would not admit, or enforce any claim to property, possession, or service of a slave, except on behalf of a Mussulman or Hindoo claimant, or against any other than a Mussulman or Hindoo defendant.

*Answer of Mr. H. J. Middleton, Judge of Moorsheedabad, dated 4th February 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.*

No. 2.

2. Slavery, I believe, exists in Bengal as in the Upper Provinces; and as far as I can learn,—Mahomedans, Hindoos, Armenians, Jews, and East Indians all hold slaves.

3. With respect to the first question, of the Law Commission, as to the legal rights of masters over their slaves, *etc.* it may be remarked that as, in the administration of Criminal justice, the Government has directed that the Courts shall be guided by Mahomedan Law, excepting in cases wherein a deviation therefrom may have been expressly authorized by the Regulations,—the rights over slaves can be no other than those conferred by the said Law and the Regulations.

4. On the second question, of the Law Commission, I have to state, that in cases of murder of a slave by his owner, the Mahomedan Law which exempted the master from “Kissas” has been modified by Regulation VIII. of 1799. The making of Eunuchs has been declared a heinous crime, subject to exemplary punishment by Circular Orders of the Nizamut Adawlut dated 27th April, 1796. But for the homicide (short of murder) or cruel treatment of a slave, there is, I believe, no enactment for regulating the practice of the Magistracy: and I should imagine, that as in petty cases there would be no Futwa taken by the Magistrates from the Mahomedan Law Officers, the Foujdary Court would punish the offender as though his offence had been against his servant, and not his slave. In more serious cases of maltreating a slave, tried by the Sessions Court, I consider no greater latitude would be permitted to the owner of a slave than to the master of a servant, nor would any Judge, I think, agree in a Futwa which declared the fact of the injured party being a slave, a ground for mitigating the punishment to which the owner had, on trial, been declared amenable, since the sympathy of the European presiding Officer would always, in consideration of his defenceless condition, be arrayed on the side of the slave. Magistrates, I believe, would not generally grant the privileges and indulgences made in behalf of slaves, and noticed in the Hedaya (See Hamilton’s Index Article “Slaves”) and consequently, if a slave committed an assault upon, or destroyed the property either of his owner or of a stranger, such slave would, I suppose, by our Courts, be punished by imprisonment.

5. In reply to the 3d question of the Law Commission, I beg to say, that a slave can be a slave only, with reference to his owner. Whatever immunities the Hindoo or Mahomedan Law may give that owner, such could never, in criminal matters, place a slave under any special outlawry, with reference to strangers. Hence I doubt, whether a case coming within this question, has ever occurred in our Courts. A British Magistrate would never allow a master to injure a slave with impunity, much less a stranger, and the latter would certainly be punished like any wrong-doer to a party, other than a slave.

6. With respect to question 4th, in paragraph 4, of the Law Commission’s inquiry, as to, by what law or principle the maltreatment of a Hindoo slave by his Hindoo master, would be considered as an offence cognizable by the Criminal Courts,—it may be stated, that as the Hindoo Criminal Law, has been placed in abeyance by the Regulations of Government, the offence glanced at in the question, would be punished under the Regulation—Criminal Law.



7. I find it difficult, to offer any answer to the 5th question, contained in paragraph 5 of the Law Commission's inquiry—viz. whether with reference to Section 9, Regulation VII. of 1832, the Courts would support the claim of a Mussulman master over a Hindoo slave, when according to Hindoo Law, the slavery is legal, but according to the Mahomedan Law illegal, and *vice versâ*. The explanatory provisions detailed in that Section, are of recent origin, nor can any cases, be traced in the published reports, which can directly or constructively be brought to bear on this subject. Until, therefore, the question be set at rest, by some regular suit, appeal, or construction of the Superior Court, a great diversity of practice will probably obtain in the Subordinate Courts, by reason of each taking a dissimilar view of the provisions in question. The following would, I conceive, be what the Civil Courts here would do in such cases. Suppose a Mahomedan to claim the property, possession, or service of another (be he Mahomedan or Hindoo) as his slave, and the latter to deny the claimant's right, the claimant would be required to prove that the person so claimed, is his slave, according to the provisions of the law, acknowledged by the claimant, and in default of such proof, his claim would be dismissed and the alleged slave declared free (on the principle that the claimant has no right to that which is denied him by the laws of his own persuasion) and *vice versâ* in the suit of a Hindoo claimant. But in a similar suit, brought by a claimant originally a Hindoo, and since converted to Islamism, we should, with reference to Section 9, Regulation VII. of 1832, pass judgment in his favor (provided Islamism be proved) that he was entitled to the alleged slave, by succession or inheritance, either before or after his apostacy, and that the slave in question was a legal bondsman, agreeably to the Hindoo Law. Also in suits instituted by claimants originally Hindoo or Mahomedan, but at the time of bringing the action professing the Christian or any other religion for the possession of a slave, such slave being proved a legal bondsman according to the law from which the claimant has seceded, I think the claim must, under the section above cited, be maintained. Supposing, however, a claim to a slave to be advanced by a party neither Mahomedan, Hindoo or seceder from either of those faiths, I consider the Courts could not uphold such,—in that, slavery is not sanctioned by any system of law, which is recognized by the Government, except the Hindoo and Mahomedan Laws.

8. I subjoin *extracts* from a memorandum, prepared at my request, by Mr. G. Myers, the Principal Sudder Aumeen,—a gentleman of great intelligence and observation, and whose career has been followed in the Upper and Western Provinces, as well as those of Bengal: and in doing so, I imagine, I meet the suggestion contained in the communication of the Court (dated the 13th of last November) now acknowledged.

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*Extracts of Notes, and Observations on Slavery as existing in Bengal, Behar, Benares, and the Ceded and Conquered Provinces. (By Mr. G. Myers, Principal Sudder Aamin.)* No. 26.

The sources by which slavery is perpetuated are chiefly the following.

1. Importation by Sea or land. This source has been much crippled by the Act 51, Geo. III. Chapter 23, and Regulations X. 1811 and III. 1832. The Arab ships, which twenty years ago, were wont to import into Calcutta from ten to thirty slaves in almost every ship, seldom bring now more than a fourth of that number on each vessel. I have seen male and female, Abyssinian and other Negroes, to have been sold in former times, at Calcutta, from fifty to one hundred Rupees, but they cannot be procured now for less than two hundred to four hundred Rupees.

The exportation for traffic of country slaves from one Province of the British Territories to another was prohibited, by a proclamation of Government, so long ago as the 22d July, 1789; and though, (with the exception of Section 74, Regulation XXII. 1795, for the Province of Benares,) the rules of this proclamation appear not to have been embodied in the Code of Regulations enacted in 1793, for the Province of Bengal, nor in that of 1803 for the Ceded and Conquered Provinces,—yet the Magistrates have, in the spirit of it, universally discountenanced such a commerce. That the practice still prevails, to a limited degree in the Mofussil, I have not the least doubt. In the year 1809, or 1810 perhaps, when I was at Hurdwar with the Board of Commissioners, I remember very well seeing a large number of children of both sexes brought down by the adjacent mountaineers for sale at the fair; and I have good reasons for believing that the inhabitants of the chain of mountains bounding the North and North Eastern parts of Bengal, are in the habit of clandestinely importing slaves for sale into the adjoining Bengal districts, particularly young boys and girls. These importations are, however, invariably checked by the Magistrates whenever they chance to hear of them. With respect, however, to the Town of Calcutta, I can say from personal knowledge, that the practice of annually bringing boat load of children for open sale in the town from the interior of the country, adverted to by Sir W. Jones in his charge to the Grand Jury delivered on the 10th June, 1785, does not exist at present.

2. Kidnapping children and selling them into slavery. This source is, from its nature, limited, and when detected the perpetrators are liable to punishment under the Regulations.

3. Sales of children by their parents, or relations, from poverty, or inability to maintain them in times of famine, or other general calamity;—as in the year 1833, when, owing to the disastrous inundations experienced in the Southern parts of Bengal, hundreds of half starved, helpless wretches, thronged the suburbs and streets of Calcutta and the adjoining districts, offering themselves and their children for sale for a few measures of rice only. This source of slavery is the most prolific: and the origin, of almost the whole slave-population, in the provinces above indicated, may be traced to this and the following.

4. Birth, as the offspring of a slave, commonly denominated *Khanazad*.

5. Voluntary sale or pledge by a person of full age to serve his creditor as a slave, in liquidation of, or till the redemption of, a debt, or in consideration of money borrowed to discharge the debt of another creditor. This source is, as may readily be imagined, very confined; but I have known men so infatuated, especially

tin the Upper Provinces, as to render themselves slaves by written engagements to heir creditors, when otherwise unable to liquidate the debts contracted by them ; and even of parents pledging their children, and husbands their wives, as security for money borrowed,—the persons so pledged being maintained by the pawnee and rendering him the ordinary services of a domestic.

Before I proceed to the questions propounded by the Law Commission, I shall make a few observations in illustration of the manner in which slaves are generally treated in this country by their owners. That, slavery, however modified or restricted by law, is a crying evil,—is unquestionable ; and the sooner abolished the better for mankind. From all however that I have seen, or heard, or read, I have no hesitation in declaring that the East India slaves, are, in every particular, better treated than their unfortunate brethren of the West. The slaves in this country form in fact, a class of cheap, and are treated by their owners as, domestic servants. More confidence is often reposed in, and greater consideration sometimes shewn to, persons of this class by their owners, as being their property and *Khair Khas*, than to hired free servants, who are often termed *Ghair* and *Begana*. Let me not however be understood as asserting that owners do not often maltreat their bondsmen. There are, in this country, as many masters in human shape, dead to every generous and noble feeling, as in other parts of the world. The redeeming feature of this country slavery, is that the slaves are not so systematically worked up, nor so cruelly whipped and punished as in the American slave holding districts. The rising and resistance of slaves against their owners have occurred in America and elsewhere ; not so in India. A servile war is an event, I believe, unknown in the history of this country. The picture however, drawn of slavery by Sir W. Jones, in his charge above alluded to,—viz. “ Nevertheless I am assured from evidence, “ which though not all judicially taken, has the strongest operation on my belief, that “ the condition of slaves within our jurisdiction is beyond imagination deplorable ; “ and the cruelties are daily practised on them chiefly on those of the tenderest age “ and the weaker sex ; which, if it could not give me pain to repeat and you to hear, “ yet, for the honor of human nature I should forbear to particularize,”—is in my humble opinion too highly colored: whilst on the other hand, the description given by Mr. Macnaghten,\* that—“ In India, generally speaking, between a slave and a free “ servant there is no distinction, but in the name and in the superior indulgences “ enjoyed by the former. He is exempt from the common cares of providing for “ himself and family ; his master has an obvious interest in treating him with lenity ; “ and the easy performance of the ordinary household duties is all that is exacted in “ return”—though rather favorable, is yet, on the whole, nearer the fact, as far as my observation goes, than the former. The natives of this country are not prone, to beating their servants or slaves for trivial offences. Abusive language and threats are the correctives usually applied on these occasions. To sell a slave is universally considered infamous ; and the profession of a slave-dealer is justly held in execration both by Hindoos and Mahomedans. I cannot charge my memory with an instance of a respectable native selling his slave. If the owner is reduced to poverty, the slaves are set at liberty. Much affection often subsists between a *Khanazad* and the offspring of his owner. I have known several instances of slaves set at liberty by their masters, from inability to provide for them, to become in their turn the supporters of their masters. An instance of this kind has recently come to my knowledge ; of a woman, who was formerly a slave serving in the family of an officer

\* See Printed Remarks—Principles and Precedents of Mahomedan Law, p. 39.

of high rank, at this station, in the capacity of an *ayah*, or child's maid, and maintaining her former mistress, at Calcutta, from the savings of her wages. I cannot, however, say whether the class of slaves termed *adscripti glebe* where they do exist, as in some of the Upper Provinces, are sold along with the land. But from the general repugnance of respectable natives to the practice, and from the circumstance of my never yet having a deed of sale of lands in which this description of property is even remotely alluded to, or read an instance of this kind in any historical work on British India, I should suppose, if ever they occur, such transfers to be rare. I am also not aware whether the custom of hiring out slave to strangers by the day or month is prevalent in this country.

*Answer of Mr. R. Torrens, Magistrate of Moorshedabad, dated 21st March, 1836, to the Register to the Sudder Nizamut Adawlut, Fort William.* No. 27.

The subject\* is one, in which I have had no experience in the Civil Court, or in the Criminal.

2. I have only to observe that I consider it my duty as a Magistrate to punish any assault committed by a master on the person of a slave with the same severity, as if it were inflicted on the person of a free-man.

*Answer of Mr. C. R. Martin, Officiating Judge, Zillah 24-Pergunnahs, dated 13th of May, 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.* No. 28.

I have, in no one instance been required, in my official capacity, to give my attention to any one of them.† I have had no practical experience in any Court whatever in the decision of questions in which the relation of master and slave has been a subject of legal consideration. Both the Mahomedan and Hindoo Laws recognize this relation, and the rights of masters over their slaves extend very far. Masters may sell their slaves to any person, and at any price, without the consent of the latter, may give or bequeath them as any other property or possessions, and may also pledge them as security for debt. They may compel them to labour or give them their liberty, the latter can possess no property, all their acquisitions become the property of the former, but it should be observed that these rights were formerly recognized only in cases where persons became slaves in consequence of having been made prisoners of war and of being descended from such prisoners. To such persons, the term slave in its strict and unlimited extent appears only to have been applied. The term, when applied to any other person was considered a term of reproach, and any person so using it was liable to punishment.

2. The authority of the master over his slave is quite absolute according to the Mahomedan Law; and protection cannot legally be extended to the latter in case of cruelty or hard usage. But notwithstanding, the law at the present time is so much on the side of the master it is an acknowledged power of the Courts to award penalties on the master if he do not feed and clothe his slaves well, do not allow them to marry, or punish them without cause. The Courts would also protect slaves equally with free persons against other wrong-doers than their masters; though in small matters,—such as those of petty assaults for instance,—the slave is less likely, according to the custom of the natives, to obtain redress in the Court than the free person.

3. In reference to the particular case referred to in Mr. Millett's letter, viz. the emancipation of Zuhoorun, I am wholly uninformed in respect to the law by which the Court was authorized to decree the emancipation. I have said that the Court exercises discretionary power in cases where slaves are punished by their masters without cause, but I am not aware that it can extend so far as to emancipate a slave. Maltreatment is not legally a sufficient cause for emancipation. The decisions on such questions however would depend very much on the interpretation of the Mahomedan and Hindoo Laws, given by the native functionaries of the Court.

In conclusion, I beg to observe that if the matter regarding slaves was well sifted, very few would come under that denomination, and those that are so are treated more as members of the family in which they reside than as *bondsmen*.

No. 29. *Answer of Mr. Laurell, Officiating Magistrate of Zillah 24-Per-  
gunnahs, dated 3d February, 1836, to the Register of the Sud-  
der Dewanny and Nizamut Adawlut, Fort Willam.*

2. I regret extremely my inability, to furnish the superior Court with any information that may tend to throw any light on the various points of the question now mooted: as, in the first instance, I have never myself met with any case bearing at all upon the subject,\* and secondly, because after a careful search, and investigation amongst the records of this office, I can find no instance of a case having occurred which might guide me as a precedent in the event of any such, as are noticed in the letter of the Secretary to the Law Commission, coming before me, or from which I can glean any information on the subject in general.

3. Under these circumstances,—with no specific Regulation of Government to direct me,—with no precedent in the office upon which I might, if it so seemed expedient, ground the basis of my own proceedings in the event of my being called upon to act in a case of the description now under discussion,—(coupled to the circumstance of my never having yet been called upon to act in any such case.)—I trust the Court may be inclined to make every allowance for the scanty and imperfect information with which I am enabled to furnish them; and that they will not attribute the same to any want of zeal and perseverance on my part in my endeavours to obtain data, from which I could have gathered more ample and satisfactory information, preparatory to submitting it for their consideration.

4. I cannot however omit the opportunity to state, for the information of the Court, that, although I cannot point out any specific rule which I might take for my guidance, nor am I enabled from the records of my office to adduce, as a precedent, any case where a master and slave have been the opposing parties to each other,—yet I have no hesitation in saying that were a slave to prefer a complaint in any Court, where I might happen to preside, against his master or owner, or any other than his master, I should feel myself bound, both, in reason and in justice, to grant my protection to such slave, both as regards his property and his person in the same way, and to the same extent, as I should be authorized to do by law and regulation, in the case of any other individual under the jurisdiction of British Courts.

5. I should moreover,—notwithstanding that according to the Hindu Law “a Hindu master appears to have still more absolute and unlimited power over his slave than a Mahomedan has by his law over his,”—I should, I say, still be inclined to treat Mahomedan and Hindu masters and slaves precisely in one and the same manner; as “by the Act (as quoted in the 3rd paragraph of Mr. Millett’s letter) 51 Geo. III. Cap. 23, and Regulations X, 1811 and III, of 1832, the importation of slaves, by sea or land from foreign countries, and the removal of slaves for the purposes of traffic, from one part of the British Territories dependent on the Presidency of Fort William (including Agra), to another,” is specifically prohibited: and although the confirmation, by the Governor General in Council on the 12th April 1798, of the construction put by the Sudder Dewanny Adawlut in the same year on Section 15, Regulation IV of 1793, (which was again fully recognized by the resolution of the Honorable the Vice President in Council under date 9th September, 1827, and afterwards extended to Benares and the Western Provinces,) would seem in some measure to be contradictory to and at variance with the spirit of the Act of Parliament and of Regulations X, 1811 and III, 1832,—still I am not aware that these latter have been abrogated or specifically rescinded by any subsequent Act or Regulation; and my opinion therefore, naturally is that to all intents and purposes, the system of slavery has been legally abolished, and that consequently, any principle tending to deprive a slave of any right or privilege in a Court of Justice, which a free man enjoys, should not for a moment be recognized in any Court; but that the same indulgence and protection should be indiscriminately and impartially allowed and extended to all,—to slaves (or those who are so considered), as well as to free-men.

6. My view of the case, as above set forth, may very possibly be erroneous, but such as it is, I respectfully beg leave to submit it for the consideration of the Court, and beg leave to add my hope, that they will be good enough to bear in mind, that I have merely stated the way, I conceive, I should myself act, in the event of a slave (or any person so denominated) claiming my protection in my capacity of a Magistrate or other Judicial Officer, against his master, or any other individual, under the present (as it appears to me) contradictory and undefined state of the law and regulations regarding slavery in this country.

No. 30. *Answer of Mr. G. W. Battye, Joint Magistrate of Baraset, dated 6th of July 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.*

I must declare my inability to afford any information as to the practice of the Civil Courts in questions of slavery.

2. With reference to the custom prevailing in the Criminal Courts, I can speak more from enquiry than actual experience; as I do not remember ever having received a complaint from master or slave in any of the offices, to which I have been attached. The existence of slavery however among both the Mussulman and Hindu population is notorious, and it is perhaps extraordinary that so few instances should occur in which either party ever come into the Courts; as regards however the proprietors, it is not so much cause of astonishment,—as although the regulations of Government are, with the few exceptions quoted in Mr. Millett's letter, silent on the subject, yet the general feeling known to exist in the breast of every Englishman may of itself deter them applying for aid to the Courts.

3. In the absence of any distinct prohibition of slavery, I should have perhaps been doubtful what was my duty, had not the case of Nujoom-oon-nisa afforded a precedent for the authority of Government, to emancipate slaves when any act of cruelty was established.

4. Giving, therefore, an extended meaning to Regulation III of 1832, and supported by the decision of the Court above quoted, I should not hesitate to set at liberty any slave who sought protection of the Court; and in doing so, I imagine, I should only be pursuing the course usually adopted by Magistrates before whom similar complaints have been instituted (at least such I am informed has been the case in districts to the eastward where slavery is more prevalent than here.)

5. The provisions of Clause 23, Act 51, Geo. III., supported by the admission (quoted by Mr. Macnaghten) of the ruling power having authority to interfere in cases of oppression, would, I conceive,—justify me in extending the protection sought—and be, as stated in the preamble to Regulation 1811, consistent with the dictates of humanity and with the principles, by which the administration of this country is conducted.

No. 31. *Answer of Mr. C. G. Udny, Civil and Session Judge of Zillah Nuddeah, dated 13th September, 1836, to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.*

2. No case involving the question of the relative rights of master and slave appears ever to have arisen in this Court. But I conceive, that the plea of proprietary right would never be recognized as justifying acts of oppression, and that in such cases the Courts would not hesitate to afford protection to slaves from the cruelty of their masters as well as of other wrong-doers.

3. With regard to the question contained in the 4th paragraph of the letter from the Secretary to the Indian Law Commissioners "by what law or principle the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the Criminal Courts;" it is sufficient to state that the act being *prima facie* illegal, it would rest with the master to shew specific grounds of exemption from the authority of the Courts. In cases of this nature, more especially the judicial authorities, would no doubt be scrupulously opposed to any latitude of construction, and the circumstance that the extent of the master's power over the person of his slave is not defined by the Hindoo Law, would never be held to confer an unlimited and irresponsible authority over him.

4. With regard to claims preferred in our Courts by a Mussulman master to a Hindoo slave and vice versa, all difficulty would be obviated by making the law of the defending party the rule of decision, for although according to the Hindoo Code slavery is allowed, yet a Hindoo cannot legally be the slave of a Mahomedan who is considered as his inferior.

5. No claims to the property, possession, or service of a slave ought, in my opinion, to be admitted or enforced by our Courts, except in cases in which the claimants and defendants are either Mahomedans or Hindoos.

*Answer of Mr. H. P. Russell, Officiating Additional Judge, Nuddeah, dated 8th September, 1836, to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.*

No. 32.

2. The subject embraced in these communications is one with which I am not practically conversant. I do not remember any Criminal prosecution on the part of a slave against his master, or vice versa; the subject, therefore, is not one on which from experience, I can afford any information.

3. With exception of a few cases which came before me when Register of the Zillah Court of Behar, in 1823 and 1824, the above observations equally apply to the Civil Court. In them there was no question as to the subserviency of the slave, but merely as to the right of ownership. Under these circumstances, I am unable to state "what legal right of masters over their slaves with regard to their persons and property are *practically* recognized by the Company's Court."

4. With reference to the 2d paragraph of Mr. Millett's letter as to "what extent it is the practice of the Courts, and Magistrates to recognize the relation of master and slave, as justifying acts which would otherwise be punishable or as constituting a ground for mitigation of punishment,"—viewing the slave more in the light of a servant, no Magistrate, I conceive, would recognize any right of punishment on the part of the master, than that of moderate correction, and that on complaints of cruelty, ill usage, or aggravation of any kind, being preferred by slaves against their masters, our Courts would afford equal protection to them as to any other persons, and in so doing in case of the parties being Mussulman, I apprehend, they would be acting in perfect conformity to the Mahomedan Law.



5. As regards the question contained in the 4th paragraph, viz. "by what law " or principle the maltreatment of a Hindu slave by a Hindu master, would be considered as an offence cognizable by the Criminal Courts," I conceive that notwithstanding the Hindoo law makes no provision for the protection of the slave from the cruelty and ill-treatment of an unfeeling master, and the absence of any specific rule to guide our Courts in such cases, that in awarding redress to the aggrieved party their decisions would be governed by the principles of public justice, and as Mr. Macnaghten has remarked that "a British Magistrate would never permit the " plea of proprietary right to be urged in defence of oppression."

6. In reply to the 3rd paragraph, I am clearly of opinion that there are no cases in which the Courts and Magistrates would afford less protection to slaves than to free men, against other wrong-doers than their masters, no one but a master can possess any legal right, or power, over a slave, and there can be no question as to the latter being entitled to the same redress from our Courts for injury received either in their person or property from others than their masters as other individuals.

7. With reference to the point adverted to, in the first part of Mr. Millett's communication, I am of opinion that our Courts would act in conformity to the law of the religion of the plaintiff, that is, that they would not "support the claim " of a Mussulman master over a Hindu slave, if according to the Hindu Law the " slavery should be legal, but according to the Mahomedan Law illegal and vice " versa," as it appears to me that in cases of this nature the Courts would be justified in rejecting the claims of either plaintiff, if not actually bound to do so, when repugnant to the laws of their own persuasion.

8. As to whether the Courts would admit and enforce, any claim to property, possession, or service of a slave, except on behalf of a Mussulman or Hindoo claimant, I conceive, the decision of our Courts would necessarily be guided by the laws of the parties concerned.

No 33. *Answer of Mr. R. C. Halkett, Officiating Magistrate Zillah Nuddah, dated 4th of August, 1836, to Register to the Court of Sudder Dewanny and Nizamut Adawlut.*

In reply, I beg to state that I do not know "what the legal rights of masters " are over their slaves with regard both to their persons and property, which are "practically recognized by the Company's Courts and Magistrates under the Agra " Presidency," and by some Courts under the jurisdiction of the abolished Provincial Court of Dacca where, I am told, slavery is not less prevalent than in the upper provinces; nor do I know by what law or principle the officers of those Courts are guided, in deciding cases connected with slavery.

I do not remember, that I have ever decided or met with any case similar to those embraced in Mr. Secretary Millett's communication; owing to which I am unable to point out to "what extent it is the practice of the Courts and " Magistrates to recognize the relation of master and slave as justifying acts which " otherwise would be punishable, or as constituting a ground for mitigation of the " punishment;" but, had an action of this description been brought on my file, I would

have proceeded to recognize the relation of both parties by following the modes now adopted, to examine the relation of husband and wife, father and son and others. In my opinion, the Magistrates ought to ascertain the relation of slaves and masters; and when a master claims the legal duties to be performed by his slave, and the *slave* refuses to perform them, and on the other hand if the slave shews his readiness to perform his legal duties and the master demands those services from him which he cannot legally demand,—in both cases the Magistrates ought to regulate the duties to be performed by one, and those demanded by the other,—punishing the deviating party. When the Magistrates find that a suit has been instituted falsely, they may be at liberty, after investigation, to inflict such punishment upon the plaintiff, as they would in any other case brought forward for purposes of vexation. The punishment however, on the score of relation of the master and slave, should not be mitigated or extended.

Notwithstanding “the indulgences which in Criminal matters were granted “them (the slaves) by the Mahomedan Law,” I do not conceive, that our Courts can lessen or extend their protection to slaves on complaints preferred by them of cruelty or hard usage against their masters, or any other wrong-doers than to freemen.

On perusal of the printed case of Nujoom-oon-nissa, it does not clearly appear that the state of bondage of Zuhoorun was legal; and until the real *fact* of her bondage be ascertained, it would be presumptuous to say that the Nizamut Adawlut were guided by no law in ordering the emancipation of Zuhoorun as by the mere term of “slave girl” mentioned in the report, her bondage as *not legally* established. So few individuals at present exist who can legally be called “slaves,” that I am inclined to suppose Zuhoorun must have been considered as a nominal slave girl, and not according to law. Had her bondage been established, I should then say that, the Court had passed the order according to “*good conscience*,”—having themselves laid down in their circular, that the “maltreatment is not legally a sufficient “cause for emancipation, and that the ruling power has on that ground no right or “authority to grant it.”

Laying aside the conflicting doctrines of the laws of our native subjects regarding “the unlimited power of masters over their slaves,” I am of opinion, that, the maltreatment of a Hindoo or Mussulman slave by his Hindoo or Mussulman master must be considered as an offence cognizable by the Criminal Courts; who “would never permit the plea of proprietary right to be urged in defence of oppression,” and should punish the parties as they now do for the maltreatment of a wife by a husband, and son by father.

The Hindoos, according to their own law, become slaves to individuals in the direct order of classes, but not in the inverse: such as men of the *Schatria*, (Military) *Vaisya*, (Commercial) and *Sudra* (servile) classes, may be slaves of Brahmins, and *Vaisya* and *Sudra* of *Schatrias*; and *Sudra* of *Vaisyas*. But, under no circumstances, can a Brahmin be a slave to any of those classes of people. The Hindoo Law prohibits a Hindoo to associate with *Jovuns* (Mussulmans,) as it is laid down that the Mussulmans are lower than the lowest class of Hindoos: in consequence of which, no Hindoo, I think, can ever be a slave to a Mahomedan, though the latter may be so to the former. Mahomedan slaves could be of but very little service to a Hindoo master; for the Mussulmans are not allowed even to enter the houses of respectable Hindoos. Should a Hindoo become a slave to a Mahomedan, he loses his caste, and if he perform the services which his Mahomedan master

can legally claim, he is degraded from his caste. According to the Mahomedan Law, I believe, the Hindoos may be slaves to Mussulmans who can demand duties from Hindoo slaves, by the performance of which, the latter become degraded. I am, therefore, of opinion, that it is better for us not to maintain any claim of a Mussulman master over a Hindoo slave and *vice versa*; but in a suit regarding slavery, in which both the parties are of the same caste, the Court should act according to that Law which is followed by the parties concerned.

No. 34. *Answer of Mr. C. Phillips, Judge of Zillah Jessore, dated 11th of January, 1836, to Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.*

My experience, in judicial business, has been limited almost exclusively to what has come before me at Jessore. I have been here exactly five years, during which period, not one complaint or suit connected in the most distant degree with slavery, either as respects the protection of the slave or the rights of the master has been brought forward. Neither do I find on enquiry, or from the records of the Court that cases of such a character had been previously tried and decided on by my predecessors. I am consequently unable to give the information required in regard to the practice of the Zillah Courts, or indeed, any information tending to throw light on the several points noticed by Mr. Millett's letter. The subject in discussion had never before attracted my particular attention. On the questions proposed in the two concluding paragraphs of Mr. Millett's address, I beg to state that in investigating and deciding on such cases, I should be guided by the custom which might be proved to have existed previously, provided that under the circumstances of the particular case, the custom appeared just and reasonable.

No. 35. *Answer of Mr. Donnelly, Officiating Magistrate, Jessore, dated 4th March, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.*

I beg to state, that so far as I can learn, there are not any slaves in this district; and the *Omla* tell me that no case of this description has been tried in the Court for thirty years. Prostitutes are in the habit of purchasing young female children, and petitions are occasionally preferred of their having absconded with their cloths, etc., but it has always been the practice of this Court to declare the girls free and to refer the plaintiff to the Civil Court for the recovery of the cloths. Children of both sexes are occasionally purchased from their parents, especially during seasons of scarcity; but these can scarcely be considered slaves, as on arriving at maturity they either stay with or leave their masters as may suit their own pleasure and convenience.

*Answer of Mr. Maxwell, Judge of Zillah Backergunge, dated 14th September, 1836, to Register of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, Fort William.*

2. The reference made by the Law Commission is, I believe, more strictly applicable to the Western Provinces of India, where the system of slavery is understood to be comparatively in much more general practice than in the province of Bengal; and as it embraces a subject, of which, during the short period of my career as a judicial officer, I have had no official cognizance,—I regret my inability to report from practical experience on any of the points noticed in Mr. Millett's letter, or to supply from the records of this Court any information calculated to further the enquiry undertaken by the Commission.

3. From the enquiries I have made among the better informed natives of these parts, I am induced to believe that the system of servitude or slavery, practised in many parts of India is, if not almost, unknown in this district, at all events much less general than in parts further eastward, and more particularly in the districts of Chittagong and Dacca, where a species of vassalage is understood to be pretty generally acknowledged and practised: and this belief seems to gain confirmation by the almost total absence from the records of this Court of all cases involving either questions of slavery or the right and title to persons doomed to servitude of that description.

4. In this, as in most other parts of the country, I believe, individuals composing this class of the community emanate and have emanated from the lowest orders of the agricultural population, who from indigent circumstances, the result on almost all occasions of unfavorable seasons and failure of crops, have been deprived of the means of supporting their offspring and have been compelled to abandon them for protection and support into the hands of the more opulent; to whom they remain bound in voluntary servitude until by misconduct or other contingency they forfeit their claim to the patronage of their supporters and are driven to seek a maintenance elsewhere. That, distress, occasioned by the above causes, has been severely felt in most parts of this district during the last few years,—is indisputable: but I have not heard that such contingency has contributed in any material degree to increase the proportion of persons comprised within the present enquiry.

5. I am not aware to what extent the rights of masters over the persons and property of their slaves may have been practically recognized by Courts of Justice in other parts of the country, where the system of slavery is more general than in this, and where questions arising out of disputes between the parties may have received judicial cognizance and investigation; and I am precluded from referring for such information to the records of this Court, before which no questions of the above nature seem ever to have come under discussion. But I may be allowed to remark that the custom and usage of the country are understood to recognize in such cases the paramount authority of the masters over both the property and person of the slave; and as far as I have been able to learn, such usage has been generally admitted by the Courts of Justice as a guide to regulate their decisions in cases where the relative rights of the parties have been agitated.

6. As regards the power, vested in the master over the person of the slave, the Mahomedan Law, I believe, equally with the usage of the country, recognizes the right of the former to exact from the slave every species of labour proportioned

to his ability and strength, and in cases of insubordination, or insolence to his superior, or of desertion from his service, the infliction of slight manual chastisement, while in other cases involving gross misbehaviour on the part of the slave, and generally I believe, in cases of emergency, the master is at liberty to transfer his right to the latter by sale to others, on which occasions the property of the slave reverts to the master.

7. These principles have, I am informed, been recognized and admitted in most judicial decisions throughout those districts, where the system of slavery is most general. But in all complaints of the wanton abuse of power or maltreatment preferred by the slave, the master,—who is equally inhibited from the exercise of undue severity or oppression towards his slave and enjoined to afford him protection and the means of sustenance and clothing proportioned to his substance,—becomes, on conviction, liable to all the penalties prescribed for such violations of the law, unless it be proved to the satisfaction of the presiding authority that he was acting in the exercise of his acknowledged right of coercion for dereliction of duty. And the same principles and the same law are understood to guide the adjudication of all cases whether the parties be of the Mahomedan or Hindoo faith.

8. Adverting to the points mooted in the concluding paragraph of Mr. Millett's letter to the Register of the Courts of Sudder Dewanny and Nizamut Adawluts, under the Agra Presidency, I regret, that my own inexperience has not prepared me to offer an opinion on the questions therein propounded, and my inability to adduce any precedents, indicative of the mode of procedure adopted by the Courts in cases of the nature described. After a careful review of the records of this Court, two cases only relating to the present question, have met my observation; and in both cases the adjudication was conducted in the first instance before the *Moulovy* of the Court in his capacity of Sudder Aumeen, and the claim of the plaintiff thrown out. In the former case, a person, by name Koodrut Ullah, sued to obtain possession of two persons named Sheikh Manick and Teetye, whom he claimed as slaves purchased by him for the sum of Rupees 31-8. But it appeared, on investigation before the Court, that the defendant Manick, had previously sued the plaintiff for arrears of wages; and this being deemed proof positive of the worthlessness of the charge, the claim to slavery was thrown out as wholly unfounded and this decision was confirmed in appeal to the Judge on the 13th January, 1821. The second case, involved a claim on the part of two individuals named Koorban Ullah and Miher Ullah to the persons of Chundah and Asghurreah as hereditary slaves, and the damages were laid at Rupees 64. But the claim was dismissed by the *Moulovy* on the 7th September, 1820, on the grounds that no claim to slavery on persons of Mahomedan faith could be deemed valid in the absence of a regularly executed deed of sale, or other equally conclusive proof. This decision also was confirmed in appeal to the Judge; who took occasion to remark in his proceedings,—that in the original plaint, the plaintiffs had asserted a right to a share of  $8\frac{1}{2}$  persons of whom  $4\frac{1}{2}$  were claimed as hereditary property,—and that such claims were wholly untenable as regarded the human species and with reference also to the decision of the *Moulovy*; who had declared that the Mahomedan Law prohibited persons from consigning to slavery for an indefinite period and restricted to a temporary transfer in form,—an obligation which was alone binding on the person so consigned and not on his heirs.

*Answer of Mr. Stainforth, Magistrate of Zillah Backergunge, dated 10th September, 1836, to the Register of the Sudder Nizamut Adawlut, Fort William.* No. 37.

2. As a general rule, I conceive it to be my duty to interfere between master and slave as little as possible. I should not aid in giving possession of a slave that may have quitted his master, and of any clothes or ornaments used by him. On the other hand, I should interfere to prevent a third party attempting to take away a slave against the will of the owner.

3. In any case of maltreatment that might come before me, I should consider the relationship of master and slave analogous to that of master and servant. Refusal to perform a service due, would in either case be held by me to be a palliating, and, in cases of trivial assault, perhaps a justifying circumstance.

4. No cases of the kind alluded to in the 3rd paragraph of Mr. Millett's letter are in record here.

5. I should punish a Hindoo master for maltreating a Hindu slave under the Mahomedan law,—never referring to the Hindu law in criminal cases.

6. The questions contained in the 4th paragraph of Mr. Millett's letter, relate to the Civil Court, from the judge of which they will doubtless elicit full replies.

7. Dealing in male slaves has nearly, if not entirely, ceased in this district plentiful harvests, the difficulty of retaining male slaves against their will unless they are married to slave girls, together with the circumstance of male servants being easily procurable and maintained at less expense than slaves have contributed to cause the cessation of the traffic. The few male slaves, in this district, are nearly all kept only to ensure the stay of the females.

8. Females are less frequently sold, and I am not quite sure that an indistinct notion of the regulation regarding slavery, may not be one of the component causes of this: for I am given to understand that the mode of obtaining girls for the purposes of prostitution is now generally mortgage for a long period,—the amount paid being without interest, the service without remuneration.

9. Many Hindu women, voluntarily become the slaves of private individuals being Hindoos. They are widows who have not preserved their chastity and who have quarrelled with their relations, or have no other means of obtaining a livelihood. They are taken into families whose caste allows of water being received at their hands: and if such a slave become pregnant (as her master would have the discredit of it,) means are either used to cause abortion, or the woman is turned out of the house. In the latter case, she either preserves her child and becomes a prostitute, or brings on abortion; and if this is effected without being generally known, she may be admitted into some other family, or even be received back into that which she left, otherwise she becomes a wandering beggar under the auspices of *Kishun*.

10. Hindoo girls purchased for ordinary slaves, or who are born of married slaves, are of course given in marriage before they are sixteen years of age, for after that age if they are unmarried, it is improper to receive water at their hands. The marriage is sometimes with a free man; but seldom, as the match is not creditable, to the husband. In other cases, as the male slaves are few, several women are married to one of them; or lastly, they are married to *Beeahars*, professional bridegrooms, who receiving three or four rupees, marry slaves, cohabit with them for a short time, and quit after the fashion of the *Koolex Brahmuns*.

11. If the slave become pregnant when it could not have been by the Beakara, he is sought for and induced, by a present, to come and cohabit with her for a short time, to divert suspicion of the paternity from resting on the master. If the Beakara cannot be found, abortion is resorted to, or the woman is turned out.

12. The profession of a Beakara obtains among the Moosulmans,—the birth of a bastard child in whose house is not necessarily discreditable. A Moosulman generally marries a slave girl, born in his house, to some one who will live by his house. Such husbands often serve elsewhere; but the wives, perhaps from motives of jealousy, are not allowed to do so.

13. Male slaves, born in a house, seldom marry slave girls, but often leave their masters and marry the daughters of villagers.

14. There are no women servants in the interior of the district. They would not be preferred; as temporary servants would more frequently give rise to scandal and be more disposed to aid and abet in intrigues.

15. The female slaves of ordinary persons are generally well treated: for they can easily run away and they are looked upon by the children, whom they have brought up, with great affection. But it is to be feared that the slave girls of powerful zemindars whose houses are surrounded by their own villages through which escape is almost impracticable are often treated with oppression and cruelty.

No. 38. *Answer of Mr. W. Dampier, Commissioner 16th Division, Chittagong, dated 1st October, 1836, to the Register of the Sudder Nizamut Adawlut, Fort William.*

3. I am not aware that the Magistrates consider the relation of master and slave as authorizing any less degree of protection than that afforded by them to servants,—excepting that I do not think any Magistrate competent to interfere in the release of a slave from confinement in his master's house, on a petition: because, if that authority was once admitted slavery under the Mahomedan or Hindoo Law would cease to exist; as a petition alleging confinement would, at any time, ensure release.

4. A Magistrate is, I consider, authorized to interfere in cases of cruelty or severe maltreatment only. But as no law is laid down, the practice of affording the assistance varies much; some officers entirely separating the slave and master, whilst others deem it sufficient to take security for the future good conduct of the master.

5. I do not think that in the lower part of India many, if any, slaves held on a strictly legal tenure are to be found in the possession of Mahomedans. Those called the families of hereditary slaves have merely performed services of slavery for several generations,—the mode of acquiring a property in them not being at present known; and if they came into Court, the ownership could never be maintained.

6. The slaves are, however, so exceedingly well treated in general, and there is such a necessity for having them in respectable families to attend on the females, that they may be considered as a class to be better off than those of their countrymen.

who live by labor. But there, no doubt, exists a great necessity for a law distinctly defining what slavery is, both with Hindoos and Mussulmans, the rights of their masters and the powers of the Criminal Courts to interfere summarily in certain cases; for all Magistrates differ, at present, in their practice, according as their feelings on the subject differ.

7. I also think it would be highly advantageous to define more particularly the power of the Hindoos to dispose of their offspring as slaves in their infancy, and the degree of right which the purchasers have over them when they reach their full age.

*Answer of Mr. Moore, Acting Judge of Zillah Chittagong, dated 24th February, 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.* No. 29.

2. Throughout our Provinces, the claims of master over their slaves are admitted, but a great diversity of procedure will be found to obtain. Some officers, on an application to the Criminal Court, issue a warrant of arrest against a run away slave: others again, refer the master to the Civil Court. By some, a distinction is made between Mussulmans and Hindoos,—admitting the latter only. It will be found also that some Magistrates reject petitions for the mere recovery of slaves unless coupled with an accusation of theft or of having borne off the master's property in his flight.

3. But I apprehend, when any charge of ill treatment or cruelty is preferred by a slave against his master, then there is but one system pursued in the trial. There is no distinction of persons. The case is decided as any other between parties both freemen.

4. The above, is the sum of my experience as a Magisterial Officer. As relates to our Civil jurisdiction, I have invariably found the claims of Hindoos to the personal services of their slaves respected and upheld. A suit for the exaction of the produce of the slave's labour has never come under my notice. I know likewise that a great diversity of practice obtains, in Civil Courts, regarding the admission of claims made by Mussulmans,—many officers admit while others reject them as totally illegal.

5. In this Zillah, such has been the case; yet the Mussulman admits, his claim cannot stand the test of his law. One case only has come before me. It was a special appeal in the suit of a Mussulman native of some respectability for the daughter of a poor woman that had been sold to him by the mother. The officer of the lower tribunal was a Mussulman, he threw out the claim as being contrary to the code the plaintiff was bound by,—allowing him to recover back his purchase money from the mother; and even from this, a certain sum as the hire or wages of the girl was deducted. The Principal Sudder Ameen upheld, and I finally confirmed the decision of the lower Court. The Principal Sudder Ameen was a Hindoo, still a native, and therefore alive to and self-interested on the point of slavery. He performed his duty conscientiously, and we may learn that slavery would not be sanctioned, even in a country abounding with slaves, whenever a claim may be preferred by any one who



bought not to foster it; and this, may be sufficient answer to the question proposed in the 5th paragraph of Mr. Secretary Millett's letter. No illegal claim would be supported provided the Judge is aware of the law. I regret to add the proviso, some officers have not given the subject mature deliberation. They may probably think that custom has superseded the law.

6. Slavery in these provinces exists only in name. It is a species of servitude almost reduced to a contract; which if not explicit, is implied. Kindness and good treatment, sustenance and a home are the articles on one side; faithful service on the other. A slave certainly might bear some harshness without murmur. When more than ordinary then he would seek relief in flight or remove with his family to the estate of some Zemindar whose protection would ensure him from any molestation except a Civil suit.

7. Instances of violence or cruelty are rare,—nearly unknown. The Hindoo slave is the favored and confidential menial. Amongst the most respectable Hindoos, the slave has the control of every thing,—the surdar as they call him. His fellow slaves have their different offices. When they become too numerous they settle out, and are independent as far as respects property. All they acquire, is their own. Only now and then, at stated festivals, they are bound to attend their masters to perform offices of service. In wealthy families when the slaves settle out, the land on which they locate is given them, that is, the spot on which their residence is fixed, and they take and cultivate lands as other free tenants; what is more, if called upon for extra services beyond the stated festivals they are entitled to and receive the regulated hire of a free labourer.

8. The custom and habits of the Mussulmans vary from the Hindoos. The slaves of this sect are not so numerous: when they quit their master's house they make themselves free: while resident, they are his domestics.

No. 40. *Answer of Mr. Bruce, Acting Joint Magistrate, Noakhollce, to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.*

1. A slave can scarcely be considered the absolute property of his master,—as the power of the latter over the former is not unlimited. The Courts of Justice are as accessible to the slave as to the free-man; and possession of a slave who has left his master can only be recovered by a decree of Court. The property of a slave is his absolute property. He may dispose of it as he pleases, and his heirs succeed to it. If he die, without heirs, it goes to his master.

2. As far as regards summary correction and maltreatment, the relation of master and slave, either Hindoo or Mahomedan, appears to be viewed much in the same light, as that of father and son; although, after the years of childhood, even to a more limited extent.

3. The protection afforded by Magistrates to slaves against other wrong-doers than their masters, is the same as that afforded to free-men.

4. I have not been able to ascertain that any Court has the right to grant emancipation, on the grounds of maltreatment.

5. In taking cognizance of the real treatment of a Hindu slave by his Hindoo master, the British Magistrate is guided by the law, in the power of one man over another universally admitted in civilized communities, and that power extended by slavery-laws by the power given in the statutes of the master to punish his slave with a slight rod,—and by his feelings as an Englishman.

The foregoing remarks are the result of my enquiries relative to the practice of the Courts of Justice and are in strict accordance with the feelings of the native community.

*Answer of Mr. J. Shaw, Civil and Session Judge, Zillah Tipperah, No.  
dated 20th June, 1836, to Register to the Courts of Sudder  
Dewanny and Nizamut, Fort William.*

In offering any observations on so momentous and important a subject, I do so with considerable diffidence, having seldom had occasion to exercise my judicial functions respecting it as Judge, and never having had, as far as my memory carries me, occasion to use my magisterial authority in any one instance relating to it. I, therefore, cannot be expected to afford or furnish any useful or advantageous information.

2. The cases which have come under my own observation have chiefly been brought forward by Hindu masters, claiming Hindus as their slaves: and in giving the final decisions in those cases, I have been guided by the evidence written and documentary,—the circumstances attending them and the exposition of the Law by the Hindu Law Officer. But these claims have been invariably instituted for the rights and possession of the person and not for the property of the slave. Had they been for the latter, I should have been guided in my decisions as above stated. And a similar course of proceeding has been adopted in respect to Mahomedans preferring such claims. On perusing the few cases of this nature, which have been adjudicated by former public functionaries in this district, the mode of procedure above-mentioned has invariably been followed and adopted: but there has never been an instance known, in the Tipperah district, of a Mussulman master instituting a claim for a Hindu slave and vice versa. Were such an occurrence, as the former to take place, it appears to me that the Hindu entering into such a compact with a Mussulman master and becoming an in-door servant or attendant on the family, that he would make up his mind in the first instance to renounce the tenets of his own religion and become a convert to the faith of his master, and thereby subject himself to the Mahomedan Law. In the other case, it is quite if not more improbable to occur,—it being likewise unknown in this district, viz. that a Hindu master would take into his family a Mussulman slave. Nay, he would do every thing to avoid taking such a step, in order that he might not inflict an injury upon his own character and affix a lasting stigma upon his caste, family and religion. However I have been told that, in some districts, such a custom prevails. But then the slaves are never allowed to enter the precincts of the family dwelling and are only employed in out-door occupations. And were such claims to be preferred by either of the two sects as

above-mentioned, or to be brought forward by any other person or persons of a different persuasion, (it being a matter of doubt in my own mind, whether under the provisions of Section 9, Regulation VII. of 1832, such claims could be legally supported,) I would deem it expedient and proper to have the opinion of the Superior Court previous to passing a final decision,—the meaning of the aforesaid section being vague and ambiguous. But I should certainly not admit, or enforce any claim to property, possession, or service, of a slave against any other than a Mussulman or Hindu defendant.

3. I cannot bring to my recollection an instance of a slave preferring a complaint against his master for cruelty or oppression during the period I was employed as a Magistrate. But had such occurred, and the charge been satisfactorily established, I should have exercised the authority vested in me by the Regulations in force, upon the principle of public justice, without referring to any plea of proprietary right which might have been urged by the master; and would have deemed it my duty to afford the same protection to the slave as to free persons under similar circumstances. But had the master merely inflicted a slight degree of chastisement, I should have felt somewhat loath to interfere in the matter,—in as much as slaves live in a far more easy and happy condition than their fellow labourers living in a state of freedom do, having all their wants and comforts provided for them by their masters; notwithstanding which they are said to be lazy and indolent, and often saucy and petulant when required to perform their duty, and consequently require being corrected and slightly punished.

4. I am given to understand, that in this district it is a difficult matter to hire a female servant by the month, in consequence of the dislike prevailing amongst the class of that description to enter into service: and were it not for the system of slavery existing amongst the Hindus, and hiring of persons by the respectable Mussulman for a certain number of years (there being but few persons who could actually be enumerated under the proper acceptation of the word slave now in being, or extant, agreeably to the Mahomedan Law, in the families of the better class of Mussulmans) great annoyance and real inconvenience would be experienced in obtaining proper and adequate attendance upon the inmates of the female department.

5. The Hindu may perhaps exact a slight proportion, more labour from his slave than the Mussulman master. But their respective degrees of ease and comfort may be viewed in the same ratio; and I cannot conclude this letter in a better or more appropriate manner than by inserting the following quotation\* from Mr. W. H. Macnaghten's preliminary remarks, and in which I fully concur. "The law may interpose its authority in cases of peculiar hardship and cruelty. I believe, however, it will be found that there is little moral necessity for such interposition." In Bengal (I beg to insert instead of "India," as I am only acquainted with the Lower Provinces, generally speaking) "between a slave and a free servant there is no distinction, but in the name, and the superior indulgences enjoyed by the former: he is exempt from the common cares of providing for himself and family: his master has an obvious interest in treating him with lenity and the easy performance of the ordinary household duties" (and I may add common out-door work which free persons are subjected to) "is all that is exacted in return."

*Answer of Mr. C. Allen, Assistant Joint Magistrate, Zillah Tipperah,*  
*dated 25th February, 1836, to the Register Sudder Dewanny*  
*and Nizamut Adawlut, Fort William.* No. 42.

I have the honor to inform you that it is, and appears always to have been, the practice of the Magistrate's Court of this Zillah, to afford the same legal protection to slaves in every respect as to free persons. All complaints brought by slaves against their masters or others are investigated, and the defendant if guilty, punished in the same manner and proportion as if the charges were preferred by freemen.

2. The right of controul or of punishment of slaves by their masters being not recognized by the Regulations of Government, is never admitted as a plea in justification of the offence, or even in mitigation of punishment.

3. Masters are not allowed to retain a forcible possession of the persons of their slaves. On any friend, or relation of a slave presenting a petition to the Magistrate stating that a slave is retained against his will by his master, he instantly obtains an order for his release, and protection is extended to him,—such as to ensure his future freedom.

4. In fact, slavery is now looked upon by the natives themselves as extinct. They see that the days of slavery are passed, and they have almost ceased to regard their slaves in the light of property. Slavery even in name would speedily disappear from among the native population were it not for the vain and fallacious notion that prevails in the upper classes of native society, that the possession of a long train of slaves increases their respectability and enhances their importance in the eyes of the humbler classes of their fellow countrymen.

5. Slavery as it exists, at present, in this part of India, assumes the very mildest form: and I have doubt whether it be not, upon its present footing, rather beneficial than otherwise in a country like this. Masters now well knowing that under a British administration the only hold they have over their slaves is by the engagement of their good will and affections,—being aware that any thing approximating to ill usage or hard treatment would be resented by an appeal to the Magistrate, and followed by speedy and total emancipation,—they for the most part, (being accessible to the dictates of self interest, if not to the voice of humanity,) take ample care to provide for the wants and even for the comforts of this class of their dependants; and I have known not a few instances of slaves who being bred and born in the families of their masters, have felt and expressed for them the most tender and affectionate regard.

6. Indigent parents now sell their children whom they are unable to support, to persons who are both able and willing to maintain them, and thus I am persuaded, that in many instances much misery is alleviated and not a little crime prevented: for now the wretched parent only sells that offspring, which famine and despair might, under other circumstances, have urged and induced her to destroy.

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No. 43. *Answer of Mr. J. Lewis, Commissioner of Circuit, Dacca, dated 8th September, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.*

I have the honor to state for the information of the Court of Sudder Dewanny and Nizamut Adawlut that I do not find that any slavery cases have been tried in the Commissioner's Court since its institution; and that I am consequently unable to describe the practice which has prevailed in the trial of such suits.

2. As the subject treated of in Mr. Millett's letter of the 10th October, 1835, is one to which my attention has not been directed, I am unable to make any observations at all calculated to throw light upon it, and consequently refrain from encroaching upon the time of the Court with crude speculations which would be of no value.

No. 44. *Answer of Mr. T. F. G. Cooke, Officiating Civil and Session Judge, Dacca, dated 8th of January, 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.*

2. On a search made, amongst the records of this Court, nine cases relating to slavery have been found; one in 1827; two in 1828; one in 1830; all these cases were decreed and the defendants ordered to perform service, the claim on them was as hereditary slaves;—one in 1832, claim as hereditary, case dismissed there being no document, the evidence of the plaintiff's witnesses not credited; two in 1833, claim by late purchase, both dismissed, the deed in one case not being produced, the transaction not credited in the other; two in 1834, in one, claim as hereditary, evidence not credited, and what service the father of defendant performed not apparent; in the other, claim as having bought the defendant of her father and given her in marriage to his slave—dismissed, same reasons as in case above as to the service of the husband. The parties in all these cases were Hindoos.

3. I have held an appointment in the judicial branch of the service since 1821; and, I believe, have never yet had occasion to pass any order, Criminal or Civil, regarding slaves. In the Purneah district, there were two or three cases pending: but the suits were brought on written agreements for limited periods, and the object of the suit was to get the money (paid on the execution of the deed) returned with interest, or that the person should be made to perform the conditions of the bond. They were not however disposed of when I left.

4. I should however consider myself,—bound to act agreeably to the Hindoo and Mahomedan Laws, and as not having power to pass any modified order,—unless these laws did not define the power of a master over, or the rights of a slave; and then I should act as appeared consistent with justice and reason, and not hold the opinion that, because the power was undefined, it was unlimited.

5. In reply, to the question put in the 5th paragraph of Mr. Millett's letter if the claim of a Mussulman over a Hindoo slave, was legal, by the law of the latter, but illegal by that of the former, I should dismiss the claim,—giving as my reason

that he could not claim under a law he did not recognize, and if it was vice versa the result would be the same, but my reason that the Hindoo could not be held in bondage according to a law foreign to him.

6. If the claimant was neither a Mussulman or Hindoo, but the slave was of either of those religions,—there being no law on one side and law on the other,—I should adjudge the claim by the law of the slave, giving the claimant merely the benefit of the custom of the country, which admitted of slavery. Should the defendant or slave be neither a Hindoo or Mussulman, I should not entertain the claim,—there being no law to authorize his bondage.

*Answer of Mr. J. Grant, Magistrate of Dacca, dated 6th September, 1836, to the Register of the Nizamut Adawlut, Fort William.* No. 45.

I have the honor to inform you,—that it has been the practice of this Court to afford full protection to slaves on complaints preferred by them of cruelty or hard usage by their masters or other persons,—and that the relation of master and slave has not been recognized as justifying acts, which otherwise would have been punishable, or as constituting a ground for the mitigation of punishment.

*Answer of Mr. W. H. Martin, Joint Magistrate of Furreedpore, dated 18th January, 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.* No. 46.

2. It appears to have been the practice in this Court, to consider slaves as under the protection of the law, against the ill-treatment either of their master or others; and masters have been punished for ill-treatment on complaint of their slaves. Complaints of ill-treatment are very rare—the treatment of slaves, I suspect, being generally good, and the slaves perhaps, running away instead of complaining, when ill-treated. The greater number of slaves belong to Mussulmen, and only a very small proportion are of that description, whose slavery would be legal under the Mahomedan law. This is generally known, and slaves run away or absent themselves, without, in many cases, any claim being preferred for them. In fact, I am told, that the value of slaves is small, and that they are more expensive, generally, than hired servants. And but for the convenience of them, as regards the security of the Haram, they would be in a great degree dispensed with altogether. The middle class of Mussulmen frequently provide against the escape of their slaves, by marrying them, under the form of Nukah, and thus in the event of their running away, they can claim as wives, those whom they could not, under the Mahomedan law, legally claim as slaves, though in fact they are nothing more.

3. With reference to the 4th paragraph of the letter of the Secretary to the Law Commission, I conceive that ill-treatment of a Hindu slave would be punished

under the regulations, though not actually a crime by Hindu law. With reference to the 5th paragraph, I am of opinion that under Section 9 of Regulation VII. of 1832, a Hindu master could not claim a Mussulman slave, whose slavery was legal according to Hindu law, but illegal according to Mahomedan law. But there seems nothing in that provision to prevent a Mussulman master claiming a Hindu slave, whose slavery would be legal according to Hindu law.

No. 47. *Answer of Mr. Cheap, Civil and Session Judge of Mynensingh, dated 19th September, 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.*

\* Answer to the 1st Question.

I should suppose when the slave belongs to a Mahomedan, that law would regulate the decision, and if a Hindoo, the Hindoo law. But custom has a great deal to do with such cases, or the law established by precedents in particular Zillah Courts, and also those laid down by the decisions passed in the Sudder Dewanny in appeals to that Court; some of which are to be found in the printed reports.

2. As to the right of a master in a slave, from the cases that have come before me, it would seem, he can dispose of the slave by sale, or gift, though the former practice is very rarely resorted to,—except in cases of great distress, or when the master has fallen into decayed circumstances and is unable to support his slaves. At the marriage of daughters it is usual, in respectable families, to make over to her some of the family female slaves as her attendants.

3. In the division of estates, or allotting shares under decrees of Court, it is also usual (if the claim is a hereditary one to an estate) to declare, what proportion of the family slaves are to be transferred to the successful plaintiff. But some difficulty always arises out of this part of the order and generally leads to another suit.

4. A slave has been considered as available personal property, to realize the amount of the decree: and in the instance of a native of India who held a decree, he put in, among the schedule of property belonging to the defendant, his slaves; but these I struck out. They are now never recognized as assets: for if the Court proceeded to sell them it would in fact become a slave-market.

5. I am informed it has not unfrequently happened, that a slave has purchased the freedom of himself and family from his savings,—thus establishing that the property possessed or realized by a slave in servitude is his own.

6. The property however of a slave reverts generally to the master at his death and the former often succeeds (by will) to the property of his master. If there is, at the marriage of a slave, an understanding that his progeny are not to be slaves, then the children would succeed. But slaves seldom have any thing to leave of their own, their clothes and every thing they have on, or what they have for use, belong to their masters; who provide them with every thing, and unless he becomes a minion, or favorite, it is impossible for him to accumulate any money.

7. The property of eunuch slaves (and who are only retained or to be found in the households of Nawabs and very wealthy Mahomedans) invariably devolves,

on their demise, to their masters: and many landed estates have thus reverted to the Nawab-Nazim of Bengal at Moorshedabad; which I learnt from the late Mr. F. Magniac for some time Governor General's Agent, and many years Judge and Magistrate of that district, and under whom I was employed as Register and Assistant, and being my brother-in-law had many opportunities of hearing these particulars.

8. Magistrates rarely interfere in matters connected with slaves, whether with regard to their absconding, or refusing to perform service, or any other act connected with his position as a slave,—leaving the complainant to seek redress in the Civil Courts, to which the investigation more properly belongs: and for the same reason, claims to the property of deceased slaves never become a subject of inquiry in a Criminal Court; and I have not met with a single instance of a disputed claim of this kind in this Zillah Court.

9. I do not recollect a justificatory plea, that the person mal-treated or abused was the defendant's slave, being ever urged for such treatment. In this district (except from girls in the houses of prostitutes and which I shall notice hereafter) I cannot bring to mind any complaint of this kind brought against a master by his slave; and I hardly suppose that any Magistrate would admit such plea, and the relative situations of the parties, as a mitigation of punishment.

10. The only crimes, or offences, in which such a plea being urged might possibly influence the law officer, is that of the rape, or carnal knowledge of his female slave by a Mahomedan, on the plea of his conceiving her to be lawful to him: and in this respect the Mahomedan law allows a great latitude. How far this defence would be allowed, or a bar to punishment by the Nizamut Adawlut, and excuse a man having forcible connection with his female slave, whilst living under the protection of the British rule in India, —is a point which has not, I believe, been yet determined.

11. I recollect some years ago a Kidmutgar, or some domestic, of the late Miss Thornhill's, being hanged in Calcutta for a rape on a native girl that lady had brought up and who probably was disposed of by her parents for a few rupees. I do not insinuate she was considered, or treated as a slave. But I doubt whether under the Mahomedan law a sentence of Hudd or lapidation would have been warranted under the circumstances; and the crowd, who I met coming away from the execution, seemed to express some surprise at the severity of the sentence. I believe in no instance has a capital one issued from the Nizamut Adawlut for rape.

12. I do not quite comprehend the latter part of the question, relating to the indulgence, which in criminal matters was granted to slaves by the Mahomedan law. A slave poisoning his master has had judgment of death.† But what would be held larceny in a servant amounts only to fraud or embezzlement in a slave, under the Mahomedan law and seems to have been allowed by the Nizamut Adawlut‡.

13. Persons are, by the English law,§ excused from those acts which are not done of their own free will, but in subjection to others: but as regards persons in private relations, this only renders a wife excusable. Neither a child or a servant are excused the commission of any crime whether capital or not, done by the command or coercion of the parent or master. In the case of the Garrow and his bondsman,|| the relative situations however appear to have operated in mitigation of punishment as regards the latter. In the Cuttack case,¶ the offence having been committed before the Criminal Court had jurisdiction in the province, appears to have led to a remission of punishment altogether. But as I have already said, not exactly comprehending the purport of this question, I cannot enter more into

\* Answer to the 2d Question.

\* If a master should have connection with his female slave before she has arrived at the years of maturity, and if the female slave should in consequence be seriously injured or should die, the ruling power may punish him by Tazer and Akabut.

Answer to the questions put to the Mooftees of the Nizamut Adawlut, Alexander's Magazine for July 1834, p. 17.

† Buddeen Kubar's case N. A. Report, vol. 2, p. 10.

‡ Case of Chumlee and Nusseem, an African, *Ibid* vol. 1, p. 233.

§ Russell on Crimes, etc. vol. 1, p. 15.

|| Case of Barong and another, N. A. Rep. vol. 3, p. 140.

¶ Neelcunth Mugaraj and others, vol. 1, p. 100.



it; and besides, it is more a subject for the Nizamut Adawlut, than a subordinate authority, with little experience, to dwell upon.

\* Answer to the 3d Question.

14. I am not aware of any case, in which the Courts and Magistrate have afforded *less* protection to slaves, than to free persons against other wrong-doers, than their masters. It would be inconsistent with that principle of equal justice, which is the boast of the British rule, and which it was the object of all the amendments and modifications of the Mahomedan law enacted in the Regulations.

† Case of Hunan Ali and others, N. A. Reports, vol. 2, p. 381.

15. In an affray, where a slave was killed† and “Deeut” declared to be incurred in consequence by the Futwa, no distinction seems to have been made in the punishment of the prisoners convicted, *because the deceased was a slave*.

† Mahomed Sajeid’s case, late Moonsiff of Attya.

16. In the case of a Kazee and Moonsiff† of this district, who inveigled a woman and her daughter (who were *Synuds*,) on the pretence of marrying the latter to a relation; and who instead married her to one of his slaves,—the former and his Moolah were both fined by me. The Commissioner (Mr. Tucker) enhanced the punishment and added imprisonment. The Court of Appeal, to whom the latter circumstance was reported for their information and orders, removed the Moonsiff from his appointments (Kazee and Moonsiff;) and in appeal to the Sudder Dewanny Adawlut, the Court affirmed the order,—marking however, that the Provincial Court had no authority to remove the Kazee, whose removal or dismissal rested with the superior Court only.

17. At Patna, a practice, which prevailed among masters, of putting chains on their runaway slaves was interdicted by Mr. T. C. Robertson, when Officiating Magistrate of that City, and used to be cited when I was employed as an Assistant there in the year 1821. I believe that in some instances, in consequence of such illegal duress and other mal-treatment, the slave was both released and allowed to go at large by the Magistrate, after punishing the master,—leaving the latter to seek redress in the Civil Court. But whether declared “*emancipated*” I cannot state. I used to hear the subject discussed among the Civil Authorities, and among whom were Messrs. Fleming, Newnham, Tippet, (the late) and J. B. Elliot; and the last named is still there, and I dare say could furnish information on the subject if required, and the nature of slavery generally at Patna, and the adjoining districts.

\* Para. 1st to the 3d Question.

18. The rules contained in the 5th Section of Regulation X. 1811, were *virtually* superseded by the statute cited in Mr. Millett’s letter, (51 Geo. III. Cap. 23) which again has been repealed by the 5 Geo. IV. Cap. 113: and Sec. 9, particularly declares and enacts that, the dealing in slaves on the high seas, by any subjects of his Majesty, or any persons residing or being within any of the dominions, forts, settlements, factories, or territories, now, or hereafter, belonging to his Majesty, or being in his Majesty’s occupation, or possession, or under the Government of the United Company of Merchants trading to the East Indies, is to be deemed “piracy, felony and robbery, and punished with death,” except in such cases as are permitted

¶ Russell, vol. 1, p. 164, by the Act.¶  
et *infra*.

19. The most recent Indian enactment on this subject is Regulation III. 1832; which makes the dealing, or trafficking, in slaves, a *misdemeanour only*, punishable summarily by the Magistrate by fine and imprisonment. What a difference in the offence and also the punishment!

20. But so long ago as July 1789, the Governor General in Council issued a proclamation† adverting to the practice of dealing in slaves then prevalent, and to prevent it in future and to deter by the most exemplary punishment parties from

† Colebrooke’s Supplement to the Digest of the Regulations, p. 444.

being concerned in such an inhuman and detestable traffic, Government resolved to prosecute—in the Supreme Court, or before the Magistrate, of the place or district in which the offence was committed, at the expence of the Company,—all persons who might thereafter be concerned in such trade; (the proclamation also laid down sundry regulations for the discovery of offenders and prevention of the trade;) and on the 30th of the same month and year, a Captain Horeborrow, of the Ship *Friendship*! appears to have been indicted and convicted, in the Supreme Court, for assaulting and carrying away forcibly to the Island of Ceylon and there selling, as slaves, natives of India, procured through a French resident at Chandernagore.\*

\* Auber's Analysis of the East India Company, 607.

21. Neither the Act of Geo. IV. or Regulation III. 1832, lay down where the revenue of the offence of trafficking in slaves is to be. But in the case of persons to be tried under the Act, questions as to jurisdiction are likely to arise, if the trading was not from the port of Calcutta. There are other places, as Chittagong, and the sides of the Bay of Bengal, where it might be carried on, by the natives of India, even to Ceylon, and also to Egypt by the Arab ships. For the offence of serving or procuring others to serve foreign "states," the trial is to be where it was committed "which is the place where the party passed out of the kingdom:"† and so might persons charged with this traffic from the port or place they had left, or were about to leave; but then the punishment must be made to correspond, or the difference at present between the Statute and Regulation made to assimilate. In making the observation I beg to be understood not to advocate, or propose a punishment, near so severe as that denounced under the Statute.

† Russell, vol. 1, p. 92.

22. For the reason stated above (at the latter part of paragraph 13th,) I do not venture to give any opinion on the other topics noticed in the paragraphs, or clauses, appended to the 3d question,—except that there can be but one opinion with regard to the affirmation quoted from Mr. McNaghten's Principles of Hindoo Law, "that the Courts of Justice are accessible to slaves as well as freemen, and a British Magistrate would never permit the plea of proprietary right to be urged in defence of oppression towards a Hindoo slave." Another authority (the late Mr. Dorin.) has recorded "that the Hindoo law as regards its ideas of Criminal Justice is nonsensical,"‡—an opinion very generally entertained I believe.

‡ N. A. Reports, vol. 2, p. 247.

23. The Construction of the Sudder Dewanny (confirmed by the Government) would also appear to me to have reference only to the Civil Courts in suits regarding slaves and not to the authority possessed over them "in for domestic," and exercised immoderately, or unreasonably, either in the measure of it, or the instrument made use of for that purpose, by the master of a slave.

24. The foregoing remarks apply to this question, and it may be added, that a Magistrate (I presume) under the general Regulations is bound to take cognizance of any complaint made by a slave, and if well founded to punish his master when convicted of being either a principal in the first degree, or second, or an accessory before the fact.

• Answer to the 4th Question.

25. The act of indemnity obtained for the Begum or relation of the Nawab of the Carnatic, and who was tried at Madras, for ordering her slave to be beat (who died afterwards) was not (I believe) on account of the offence not being cognizable by the Supreme Court there,—but because the defendant would not appear personally before the Court; pleading the custom of the country as exempting her

from such personal attendance, and adding that her appearance in public would be a disgrace to the whole family of the Nawab.

Answer to the 5th Question.

26. This is a very difficult question in all its ramifications, and I approach it with the utmost diffidence. "Fools rush in where angels dare not tread," may be applied to me, for venturing to give any answer, but as presiding over a Court of primary instance, I suppose it is incumbent upon me to give an opinion.

\* In this district, the sale of children by Mahomedans to Hindoos is not uncommon, but not the converse. In Behar, the Kubar caste sell themselves to both Hindoos and Mahomedans.

27. In either of the two first cases\* proposed, I would support the claim, if the contract was made with an adult and the claim was for the person sold on the "lex loci" and usage, and also because both parties have heretofore been allowed to sell themselves into slavery, and both have had the privilege to purchase slaves.

28. I would also, in special cases support the claim, when the slave claimed had been in its infancy sold by his or her parents. I mean in the extreme cases of famine and scarcity.

29. In the famine, some three years ago, in Bundelcund, the lives of numbers of children, purchased, without reference to their castes, by wealthy Mahomedans and Hindoos, were saved; and if slavery had then been prohibited, it is more than probable they would have been abandoned and left to perish or to be devoured by wolves and hyenas.

Mr. Scott's Report in Alexander's Magazine for August 1831, p. 125.

30. Mr. D. Scott has observed, "that the necessity to Government (meaning of India) to maintain, in times of scarcity, the starving poor, is a thing in itself perhaps impossible," and it would have been so in the case of the refugees from Bundelcund. The philanthropy of individuals, (among whom I may enumerate with pleasure and pride my friends Messrs. Shore and Rivaz,) though it did much good, could not meet the exigencies of the hundreds without means of subsistence. † Slavery in the mild spirit in which it is established in India (under the British rule) was, therefore, on that occasion allowed to have a beneficial operation, as regarded individuals and to the state, in saving its subjects from the horrors of famine, and its concomitants, rapine, robbery and even murder, by the exposure of infant children.

† But in such cases the Muffees seem to think it could be better for "a famished man to feed upon a dead body (!) or rob another (!) than to sell himself, and that a distressed debtor is not liable any fine or punishment," † nevertheless they are instantly incarcerated at the instance of inexorable creditors.

See answers of the Muffees cited above.

31. It cannot be necessary for me to explain what I mean by the "lex loci." It has its influence and weight even where defined laws exist, and which (though made for a different people) have been transplanted to India by her Mahomedan conquerors. In the Hindu law, as adopted in the Civil Courts, it has, like the common law of England, become a constituent part; and a bona fide contract entered into by an adult could not *equitably* be set aside, because there is no precedent in Menu for the legality of the purchase of a Mahomedan by a Hindu.

32. The Vedas are supposed to be considerably older than the Laws of Solon or even Lycurgus,‡ and the best commentaries, I believe, were written before the birth of Mahomed.

‡ Opinion of Sir William Jones in his preface to the translation of Menu.

33. The present Ambassador of the King of Oude, in London, or any other Mahomedan who ventured to marry one of Britain's fair daughters, whilst sojourning there, would, if before married in India, be likely to be brought up for Bigamy.

34. The Supreme Court, in Calcutta, in its Ecclesiastical jurisdiction, grants Probate to the wills of both Mahomedans and Hindoos: and though the conclusion may seem somewhat illogical, these well understood operations of the "lex loci" surely would not make it wrong in a Mofussil Judge recognizing, or supporting a claim of the nature proposed in the 5th question, under the circumstances I have stated, and which, in my humble opinion, would be consonant both to justice and equity.

35. I beg however to be understood that I should not recognize, or support, any claim to the progeny of such slaves, or allow that they were servile, or that the master had any hereditary claim of slavery against the offspring.

36. Neither would I admit or enforce any claim, to the property, possession, or service, of a slave, except on behalf of a Mahomedan or a Hindoo claimant; nor would, I think, any other Civil Court:—though there can be no doubt children are often purchased by Protestants, Roman Catholics and also Greeks, and brought up, not as slaves, but menials, in the creed of the purchaser; and the girls are christened or rejoice in the most florulent nomenclature, such as “Rosa,” “Narcissa,” “Jessamina,” etc.

#### GENERAL REMARKS.

37. Slavery is very prevalent in all the districts in the Eastern frontier, both among Mahomedans and Hindus, and more so in the adjacent district of Sylhet I believe than any other.\* (In the time of the Moguls it is said to have been a slave market for Bengal†.) Claims, on account of slavery, or the loss of services, by masters of the Mahomedan persuasion however are not frequent; but Hindoo masters are constantly instituting suits in the Court.

\* See Mr. Scott's Report.

† Picture of India, vol. 1, p. 173.

38. I attempted to lay down some rule for regulating how the cause of action in such cases was to be calculated, and submitted the propositions for the orders of the Sudder Dewanny Adawlut. The Court however directed me to furnish an English report. And surmising that the subject was one they (perhaps) did not wish to have mooted, and having other, and much more important duties, I did not like to trouble them with my crude suggestions and which were chiefly with a view to the Court establishing (by a rule of practice), how the loss of services of *each individual slave* was to be estimated;—as often, a whole family were included in one suit, of perhaps eight or ten persons; and in one instance the suit was laid against so many, that the amount of action, or damage, did not amount to a Rupee a head!

39. Suits used also formerly to be instituted for loss of service, after the lapse of many years, from the plaintiff's *own* shewing;—that is, the slave had absconded, or ceased to do service, for perhaps six or seven years, and often a longer period.

40. I put an effectual stop to the institution of these stale cases, by dismissing them, (whether in a regular suit or in appeal,) whenever the cause of action (i. e. the default of the slave in performing service, or his absconding and leaving his master) occurred more than a year antecedent to the date of the suit being instituted; and which I was warranted in doing under Section 7, Regulation II. 1805, as the suit was always denominated one for “Kissara” or *personal damages*, and may be viewed much in the same light as an action for seduction would be in the English Courts. A stale case, under such circumstances, would be scouted. And after a slave and his family had established themselves in some respectable employment,—to recognize a claim against them for slavery, (and which had become dormant,) appeared to be both contrary to the spirit of the Section and Regulation cited, and otherwise objectionable,—as allowing such a claim to hang indefinitely over the head of a man, who *perhaps* had been manumitted by the ancestor of the plaintiff.

41. Again: another practice prevailed in the Zillah of claiming a right of slavery over the descendants of persons who had in the first instance, on receiving a small portion of land, bound themselves down as bondsmen, or slaves to the proprietor of the soil in a *menial* capacity, or probably as mere cultivators of the land laying waste,—the land, *then* given in perpetuity, being equivalent to such service.

42. In these cases, the original agreement between the parties (if drawn out in writing) was never produced: and it appeared to me so unjust, to allow, or recognize such a demand, or claim of slavery against the descendants, (and who in many instances did not reside on the ground thus allotted, or if they did, could never subsist on the mere pittance of land granted to their ancestor,) that I dismissed all these claims. And one having been affirmed in appeal by the Sudder Dewanny Adawlut\* (by Mr. Rattray),—this is now adopted as a precedent, and no suits of this description are now instituted, though before they formed at least one-third of the slavery causes on the file.

\* Kishen Chunder Dutt Chowdry, Appellant, v. Birbul Bhundari, and others, Respondent, decided the 24th November, 1832.

43. It has been the invariable, and immemorial practice, in this Zillah, to order in slavery cases, when the master has got a decree, that both parties shall pay their own costs,—that is, the slave defendant has never been saddled with costs, and in fact it would be ridiculous to suppose they could ever pay these.

44. I may also mention that I have never seen,—the damages, or action laid at so high a rate, that the most *indigent* person could not defend it,—or an instance of an application (on the score of inability to pay costs) to be allowed to appeal “in forma pauperis.”

45. I have already noticed that slaves, if entered in the schedule as available assets for the execution of decrees have always been struck out, and which if allowed would (as I have before observed) be making the Civil Courts *marts for the sale of slaves*.

46. I have likewise noticed how they (slaves) have been occasionally divided or “butwarred” in the execution of decrees, when the decree-holder has a hereditary right, under such decree, to a portion of the estate, and also *personal* property (in which slaves are included) of his deceased ancestor.

47. I may mention that with the exception of the suits alluded to in paragraph 40, those instituted, and decided, have been mostly for persons, and their descendants, who originally sold themselves into slavery for a specific sum of money, or to liquidate a debt due to the master or some *other* debt against the person disposing of himself.

48. It will be seen, from the annexed statement, what proportion of suits have been decided (whether in the first instance or in appeal) from the 1st January 1828 to the 30th of June 1836, (or seven and half years) in favor of the master, or slave.

49. The suit, in the first instance, was generally referred for decision to the Sudder Aumeens,—if a Hindoo claimant to the Hindoo Sudder Aumeen, and if a Mahomedan, to the Sudder Aumeen of that persuasion.

50. A principle seems to have been established in a late case decided by the Sudder Dewanny Adawlut,† which though not applicable to the other cases, will be a great one in favour of slaves. The admission of a party in any Court I believe is good evidence against him, but the more so, if such is made on oath by the party.

51. In the case alluded to, the slave admitted, on his oath, in the Foujdary Court that he was the slave of the plaintiff, but this admission was not allowed, by the Superior Court, as evidence for the plaintiff, or admitted as contradicting or controverting the appellant's plea, that he was not a slave of the plaintiff or respondent. The Mahomedan Law Officer and Sudder Aumeen gave the plaintiff a decree, with reference to the defendant's deposition in the Foujdary Court, and this (in the absence of a precedent *then* to the contrary) I affirmed in appeal,—seeing no reason to distrust what the defendant had admitted against himself.

† Kertee Narain Deb and others Appellant,

v. Goree Sunkur Dutt, Respondent, decided the 7th December, 1835.

52. It may not perhaps be considered unconnected with the subject to mention a marriage ceremonial very common, I understand, in this Zillah among the large Hindoo proprietors of land; and the *greater* part being females, the practice the more generally obtains. It appears to be confined much to this part of India, and from the Pundit's Bewusta would appear not to be authorized by the "Shasters," but has the sanction of *custom*, on which, I believe, all Hindoo Law Officers place almost equal dependance.

53. It is the marrying of female slaves to a person who makes it his occupation to go about and offer himself as a husband for *any* slave. This is called a "Punwah Shadee." The bridegroom receives a few Rupees, sometimes only two and a cloth. He stays a night after the ceremony is performed and then departs; and is generally called upon to visit his wife after she has been confined. This nominal marriage (for of its consummation some doubts may be entertained) removes any stigma, or reflection that might arise from a female slave being *enciante*: but as her being so again, would, without another visit from her avowed husband, lead to suspicion or scandal, he is again called in, as I have above stated, *after her* delivery.

54. Of the offspring of such marriages, the putative father (who is a freeman) may, I believe, claim every alternate *child*, but it is not often, I believe, that he avails himself of this privilege: for if he did, and his wives were prolific, he would find it difficult to provide for his numerous family, and *paternal* feelings cannot have much to do with the matter. He is, in fact, much the same as a Koolin Brahmin and may form as many marriages,—with this difference, that the latter confers an honor on the family where he makes an espousal; and the "Punwah Battur" saves the reputation of a slave who may become pregnant in the household,—perhaps of that very Koolin's wife's family, or any other wealthy Hindoo's.

55. A case I had in the Fouzdary, where the complainant alleged his wife had been illegally detained by a *young* Zemindar, first led to my inquiring into this practice. The case was amicably adjusted, and I never heard any more of the *itinerant* husband and prosecutor. The Bewusta alluded to was given in this case.

56. With the exception in the above case, I believe the offspring of slaves are always regarded as the property of the father's or mother's master; that is, in all cases where the latter defray the expences of the slave's marriage. This gives them a lien, or a prospective claim, to the produce of such marriage, and constitutes the only legitimate claim (among Hindoos) of hereditary slavery.

57. There is a practice however revolting in the extreme, and which might at once be put down; that is, the sale of female children, *merely* for the purpose of prostitution to the keepers of brothels, who are to be found in every large town, and in the neighbourhood of most bazars and petty Hauts in this district.

58. These unfortunate children are thus brought up from infancy to infamy, and often complain (when able to do so) of the treatment they receive, from these commonly termed, "Surdarnees," or mothers. They often have good cause; but sometimes they are instigated, by some paramour, or favorite, who wishes to get them out of the hands of the bawd, and a case being made out of ill-treatment, the girl prays not to be obliged to go back to her mistress. The Magistrate tells her, he cannot compel her, and the defendant or mistress is told to seek redress in the Civil Court, and in which she is not likely to get much: as such a claim of slavery, or a slave purchased for such purposes, is neither tolerated in the Mahomedan\* or Hindoo Law, and would never be listened to in a British Court of Justice.

See the Mufte  
 answer cited above. Also a  
 letter written by the Nizam  
 Adawlut to the Com-  
 missioner Mr. Tucker, at  
 Dacca, in consequence of a  
 reference from the Magis-  
 trate, Mr. Walters. I can-  
 not mention the date. I  
 have no copy.

\* Vidocq (Chap. on the custom of Registering Prostitutes at Paris. It is also done at Lucknow, and if it is discovered that one has admitted an European or Christian she would be brought up and mulct with a fine, or maimed, or her hair cut off. In Nepaul, a Courtizan, or any woman guilty of a similar debasement of her person, would be put to death.

59. I found on my arrival in this district, (in March 1828) that sales of this description at the Sudder Station used to be registered at the Police Thannah; and though not then aware of a precedent for the practice existing in the most civilized country in Europe,\* I forbid the Darogah having any thing to do with the business, as his interference gave a colour or sanction to the sale,—which instead of being countenanced, I desired him to explain to the unfeeling parents,—excited among the Civil Authorities the greatest horror and disgust; and they deserved a *brand* of reprobation, instead of an *acknowledgement*, of having entered into the contract before the Police, and that it was a fair and valid transaction.

† See his Report para. 13th.

60. Excepting the cases of children sold in slavery for the above purpose,—believe the lot of others to be far from miserable. In nine cases out of twelve, it is better than the condition they were born in, and full as good as the state of the generality of the lower classes, and to use the late Mr. D. Scott's words† “it should not be forgotten with reference to the circumstances under which children are usually sold, that the probability is that in many cases they would not have been in existence but for that contract which at their personal liberty preserved their lives” or those of their ancestors.”

61. During the high inundation, in 1834, and partial famine in consequence, in these districts, there can be no doubt that numbers of children would have perished, had they not been disposed of to the more wealthy inhabitants; and more, that the trifling sum of money received (from the supply exceeding the demand) was the means of subsistence to their parents during the scarcity, and who for a time were fed by the people who purchased their children.

‡ N. A. Circulars, new edition, v. 1, p. 109, No. 141.

62. That a supposed prohibition to sell children, during a famine in the upper provinces, led to very fatal consequences, and many children were abandoned by, and expired in the arms of, their parents is,—upon record‡ and unless prohibited by legislative enactment, no Magistrate (as long as the opinion or order in question is in force) would venture to put a stop to the practice.

63. If slavery is to be put down, on the ground of the mal-treatment of slaves by their masters, a comparison should be drawn between the treatment shewn by the latter to their servants who are *freemen*, and I question if it would be found that the slave was, or had been, more hardly used than the voluntary menial servant, and labourer.

64. Nor on the “*maxima felicitas*” principle, would the abolition of slavery be hailed as a boon or blessing conferred on the natives of India.

65. There are undoubtedly more slaves than masters. But taking into account the happiness and comforts of *both*, it will be found, I venture to say, that a state of slavery is more conducive to that of the majority of slaves, especially of females, than the reverse.

§ Harknall of the 10th August 1836.

66. I need only refer to Mr. D. Scott's opinion, in his report, in confirmation of the fact. A writer in one of the papers§ after pointing out a revolting practice of “mock marriages” among prostitutes of their slave girls, adds—“slavery in India, in a respectable family, is *well known* to be of the mildest description; the slaves are treated with as much kindness as any other part of the family,”—more than fifty years ago it was observed. “The ideas of slavery *borrowed* from our American Colonies will make every modification if it appear, in the eyes of our countrymen in England, a *horrible evil*. But it is far otherwise in this country, (India). Here slaves are treated as the children of the families to which they belong; and often acquire a much happier state by their slavery than they could have hoped for by

“the enjoyment of their liberty.” This was addressed by the Committee of Circuit to Mr. Warren Hastings, President in Council.\*

\* Harington's Analysis,  
p. 300.

67. In passing through Fyzabad (in Oude) last year, I heard that some of the “*ladies*” (now antiquated) who, driven by hunger, plundered food from the bazar, were still living in one of the Muhals there, (all refractory Begums and subjects are banished to Fyzabad by the Court of Lucknow) and if slavery is abolished in the British Territories it will be no uncommon sight to see the higher ranks of females going about without shoes, or stockings,—a circumstance which the manager who opened the Begum charge, against the ex-Governor above alluded to, laid so much stress upon, as an *aggravation* of his conduct, or cruelty, or to say the least of it, want of consideration to the customs and habits of the “*enshrined*” ex-Begum of Oude and her female attendants.

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**ABSTRACT STATEMENT of Slave Suits pending, in-  
Mymensing, from the 1st**

1.	2.	3.	4.	5.	6.
				Finally dis-	
				In favor	
	Pending 1st Janu- ary 1828.	Pending 30th June 1836.	Total.	The slave.	The master.
Original suits before the Judge Mr. G. C. Cheap, ...	3	0	3	2	0
Ditto before the Registers (Messrs. J. Dunbar and C. Bury,) stationed at Sherepore, .....	3	0	3	2	0
Ditto before Principal Suddur Aumeen Kazee Jelaluddeen Mahomed, .....	0	10	10	4	4
Ditto before the same when Law Officer and Ex-officio Suddur Aumeen,.....	28	26	54	19	22
Ditto before Sunbonath, Suddur Aumeen, .....	15	63	78	23	35
Ditto before Ramdhun Pundit, ditto ditto, when Suddur Aumeen Ex-officio, .....	2	19	21	6	14
Ditto Mr. J. Reily, late ditto ditto, .....	17	2	19	3	10
Ditto before Bhampersaud, deceased, late ditto ditto, .....	13	14	27	7	8
Ditto before Molvee Imaduddeen, present Law Officer and formerly Acting ditto ditto,.....	1	4	5	3	2
Ditto Oomakanth, present Deputy Collector and formerly Acting ditto ditto, .....	0	1	1	0	1
Ditto before Molvee Ally Reza, Acting ditto ditto, late Moonsiff at Sherepore, ..	0	6	6	1	5
Total,.....	82	145	227	70	101
Appeals before the Judge Mr. G. C. Cheap, .....	26	57	83	37	8
Ditto before the Registers (Messrs. J. Dunbar and C. Bury,) stationed at Sherepore,.....	13	6	19	12	0
Ditto before the Acting Register at the Suddur Station Mr. C. Bury, .....	24	31	55	42	7
Ditto before the Principal Suddur Aumeen Kazee Jelaluddeen Mahomed, .....	0	11	11	4	4
Total,.....	63	105	168	95	19
Grand Total,.....	145	250	395	165	120

*Mymensing, the 19th September, 1836.*

*stituted, and disposed of by the Civil Courts of Zillah  
January 1828 to 30th June, 1836.*

7.	8.	9.	10.	11.	12.
posed of					REMARKS.
Total.	Dismissed on Default.	Adjusted or withdrawn	Total.	Pending 1st July, 1836.	
2	1	0	3	0	The present Judge was appointed to this district in the month of January, 1828, and joined on the 15th of March following.
2	1	0	3	0	
8	2	0	10	0	N. B.—The first column only shews the number of suits actually pending on the 1st of January, 1828, on that file, or transferred to it from the Judge's file or the file of other Courts subsequent to the first January 1828, when determined on that file.
41	13	0	54	0	
58	16	2	76	2	
20	0	1	21	0	Thus for instance Mr. Bury did not take charge till March, 1838, and was appointed purposely to dispose of the numerous appeals pending.
13	5	1	19	0	
15	12	0	27	0	Again: Rampershaud, (deceased) late Additional Sudder Ameen, stationed at Sherepore, was not appointed till 1829, and the suits exhibited as on his file on the 1st of January, 1828, were pending before on the file of the Register stationed at Sherepore and transferred to the Sudder Ameen's file.
5	0	0	5	0	
1	0	0	1	0	
6	0	0	6	0	
171	50	4	225	2	
45	36	0	31	2	
12	7	0	19	0	
49	5	1	55	0	
8	3	0	11	0	
114	51	1	166	2	
285	101	5	391	4	

(Signed) G. C. CHEAP, *Judge.*

No. 48. *Answer of Mr. D. Pringle, Magistrate of Zillah Mymunsingh, dated the 1st of February, 1836, to the Register to the Nizamut Adawlut, Fort William.*

1. Whatever be the legal rights of a master over a slave, they cannot operate in support of oppression ; as during an experience of ten years, while I have been employed in Bengal, Behar and Orissa, I do not recollect a case of complaint on this ground.

2. Were such to come before me, I should sanction no greater measure of coercion than in the case of a freeman ; though were the servitude proved, I should certainly adjudge the master entitled to the services of the slave as such.

3. As respects "other wrong-doers," than their own masters, I conceive their call for protection against such would be rather increased, than lessened, by the circumstance of their condition.

4. The mal-treatment of a slave, I should punish as a misdemeanour under the general Regulations.

5. If a British subject purchased a slave, I would uphold him in his demand on his services, if at the time of the purchase he was an infant. Of course, I speak as a Magistrate. I should not however uphold a transfer, in such case, when the subject was of age.

6. I have always deemed slavery a necessary evil in India, and yet in its present state only relatively so. I have invariably observed that no class are better taken care of, and provided for than slaves. If it be otherwise, they have the easy remedy of absconding. As long as they are fed, I can scarcely add clothed, they are contented. In proof of which, I have known not a few instances of its being voluntarily entered upon by those advanced in life, particularly when circumstances of debt have involved them in difficulties. This when carried into effect by a kabalah, or deed of sale, when required, as a Magistrate, I should not think of doing otherwise than enforcing.

The construction of Regulation X. 1811, communicated under the Circular Orders of the 5th October, 1814, I have always considered as virtually sanctioning the sale of infants: and during two seasons of scarcity, while I was employed in Cuttack, I invariably upheld such transactions as only averting the greater calamity of starvation ; for generally speaking, few parents would otherwise resort to such practice.

No. 49. *Answer of Mr. Charles Smith, Officiating Civil and Session Judge, Zillah Sylhet, dated 3d June, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.*

2. From a careful enquiry, I find that the practice of this Court, with reference to slavery, has been that, on a suit being instituted in the Civil Court and the claim being proved an award is given declarative of the master's right to the slave : and on application from the master, the slave is apprehended and delivered to him. If the slave refuse to serve or to comply with the award, he is imprisoned so long as the master chooses to pay the subsistence money,—in the same manner as other prisoners are confined in the Civil jail under a decree in a regular suit.

3. The same process is observed against female slaves. But no action is brought forward against the daughters of slaves, as they are, in general, married to strangers of whom the master usually receives a *douceur* of a few rupees which is termed the *Mooneebanah*, or master's fee, and thereby making over his right to another. Those slaves, male or female, who are supported and live with their masters, perform the duties of menials,—such as ploughing, cutting wood, tending cattle, drawing water, pounding rice, carrying loads, and in the same manner as paid servants.

4. Slaves who support themselves and live separately follow their own occupation. But their services are occasionally demanded in case of a marriage or death, and are the same as those required from the former description of slaves who are supported by their masters. They however receive no remuneration, but have *nânkâr* or small rent free lands allotted to them for the purpose of erecting their houses: and in general, the master shows the greatest kindness towards his slaves; though a few instances of ill usage may and do occur.

5. At present, I believe, there are no cases of a criminal nature pending before the Magistrate either of complaints from the master or from the slaves; and those cases are, I may truly say, of rare occurrence; and whether the actual services to be performed by slaves are required or otherwise, it seems to be incumbent on the master to support them and their children. I am also inclined to think favorably of the treatment of slaves in general by their masters, and we have few instances to the contrary on record.

6. The kidnapping of persons, particularly children, for the purposes of selling them as slaves, is still, I believe, carried on to some extent, and the profits derived in the traffic of human beings from this source considerable. Many a child, I apprehend, has been inveigled away or stolen,—leaving the parents in a state of deep distress for the loss of their offspring. The abolition of slavery would be an effectual remedy against such calamities; and the inducements and advantages now held out in that traffic done away with. In this country however slavery cannot for a moment bear a comparison with the barbarous manner in which that practice was till recently carried on by European nations and in other quarters of the globe. Indeed I will assert without fear of its being refuted, that slavery, in Bengal, exists in its mildest form.

7. The prosecution of a slave against his master for ill-treatment is recognized in the Magistrate's Court, and the master is either fined, imprisoned or admonished, or put under recognizances,—with reference to the nature of the crime proved. Should any slave be ill-treated by any other than his master, the same redress is afforded as to a free-man, and in those instances they have always aid and support of their masters in carrying on their prosecution. I am not aware, that Civil Courts would give a decision declaring, a slave free, on proof of gross ill-treatment.

8. In such cases it might, though just, be considered arbitrary by the people as infringing on their rights and acting in opposition to their own laws, which have been granted to them by the British Government and further secured by the establishment of judicial tribunals in 1793. In making however this observation, it is far from my intention to impugn or animadvert on the decision passed by the Superior Court in the case of *Zohoorun* against *Nujoom-on-nisah*, referred to in the letter under acknowledgment.

9. The claim of a Mahomedan master against a Hindoo slave is extremely rare, and I have not been able to ascertain any instance where a person, not being of the Mahomedan or Hindoo persuasion has instituted a suit against a slave. But

I should not hesitate to give a decision in favor of the plaintiff,—provided the original purchase of the slave to be good and substantiated. But where no direct law or regulation bears upon the point, the case would be decided with reference to established usage in such cases, and notwithstanding the terms equity and good conscience which have been so profusely and ironically applied by persons inimical to our Mofussil Courts, I should be assisted by both in passing my decision.

10. The greater portion of the inhabitants of this district are Mahomedans : and, I believe, their law permits only two descriptions of slaves, viz. infidels made captives in war and their descendants. It declares further that in no case can a person legally free, become a subject of property ;—that all slaves or purchasers of children are invalid ; that a free man cannot sell his own person even in times of famine. Under this exposition of their law, it must be inferred that in all instances in which the Courts have decided against the slave without having satisfactory proof of his having descended from a captive taken in war, the decision may be considered not in accordance with law. I am not however certain, the above exposition be strictly correct.

11. With reference to the slaves of Hindoos, if the purchase of the slave or his descent from one so purchased be established, the Courts, I should consider, must decide accordingly. There is a practice too, when slaves have multiplied beyond the means of the master, to provide for them, to allow their earning a separate or independent livelihood by letting them cultivate their own lands or putting themselves out to service. If the period they have been thus independent has exceeded twelve years,—in all such cases, the claim of the master has been generally refused, as being barred by the rules of limitation, on the plea that slaves were personal and not real property and could not be claimed after the lapse of twelve years.

12. But a more general reason has been that it did not comport with equity to allow the master to claim,—while he had for so long a period neglected to provide for the slave. I am of opinion, that most of the Hindoo slaves were bought at seasons of scarcity, and generally for small sums, and that they have repaid the value of their purchase-money by the services they have rendered to their masters, and that the latter, therefore, would suffer no great pecuniary loss in their being free. But the respectability of a person, whether Mahomedan or Hindoo, is considered by those classes respectively in a great measure with reference to the number of his slaves.

13. If the Legislative Council has it in contemplation to abolish slavery, it remains to enquire how this may be accomplished with the least detriment to the people and the least violence to their rights : for such, all slaves are considered by them. Out of a variety of plans, I would suggest that the first step taken on the subject be to order a registry of all existing slaves,—declaring, after the manner in which the rent free tenures were required to be registered in 1793, that the non-registry of a slave shall of itself entitle him to manumission.

14. If the prevention of litigation be a desirable object, I would make it a free requisite to registry, that in each district a qualified person be appointed Registrar and Justice of the Peace, with written rules or laws for his guidance, empowering him to determine upon all cases between master and slave coming under the denomination of misdemeanours, and subject to revision in appeal to the Commissioners or Nizamut Adawlut,—that the slaves be brought before the Registrar and a descriptive roll taken and inserted of the individuals. This measure would be attended with another good effect. It would prevent the registry of unjust claims

and of those who had already rendered themselves independent by earning a separate subsistence.

15. I would recommend,—that the children of all slaves subsequent to a certain period be declared free and bound as apprentices until they arrived at the age of thirty-one years, unless proof is adduced to the satisfaction of the Registrar that the parents are in such circumstances so as to be able to maintain them—and that all other slaves be free after a certain period. This seems to be the only tangible plan, which suggests itself to me, but in proposing it, I still apprehend much difficulty may arise; for few persons probably will be induced to engage children as apprentices who are to be liberated at a period when their labour and services may prove most useful. Where the population also is so extensive, menials and other servants could be procured at a cheaper rate.

16. I am aware that slavery in India, has been justified on the plea, that the toleration of it in seasons of scarcity, has saved the lives of many, who would otherwise have perished. But these visitations are by the blessings of a Divine Providence of rare occurrence; and the benefit, which a toleration of slavery might then confer, must be but partial, when compared to the multitude who suffer under its\* servitude. If the good of the few will counterbalance the evil, which is done to the multitude—if partial benefit will atone for much and perpetual misery,—then, indeed, may the point be conceded; but not otherwise. Besides there will be time enough to meet the emergency when it does occur.

\* Sic orig.

17. As I before stated, if it is the intention of Government to abolish slavery, I think it may be done,—after a reasonable period and in the manner I have above ventured to suggest. But it may at first create dissatisfaction and hardship, particularly in this district, where nearly one-third of the population are slaves: and the former, at a moderate calculation, may be estimated at one hundred thousand. The rights of the people will be considered as invaded: but if remuneration be granted, in the manner pursued in the British Colonies, there can then remain no ostensible grounds of complaint; and the supposed injustice will be soon obliterated from the minds of the people, by the desire and wish showed by the ruling power, to compensate its subjects for their losses.

*Answer of Mr. R. H. Mytton, Magistrate of Zillah Sylhet, dated No. 50.  
10th August, 1836, to the Register of the Nizamut Adawlut,  
Fort William.*

In the first place, I must mention that I believe there are no slaves of the classes termed “Muckatub” and “Moodubur” in the Mahomedan Law in this district. My remarks will, therefore, be confined to Mr. Macnaghten’s 1st class of “entire slaves.”

The power of the master over his slave appears to be almost absolute, both in law and practice. But doubtless exceptions to the rules contained in the 11th paragraph of Mr. Macnaghten’s chapter on slavery occur: for instance, a slave has by sufferance occupied a separate dwelling for some years, amassed a little property

\* Answer to Question 1st.

\* See Letter from the Law Commission, No. 1.

and become in a manner independent. This person would exercise the same powers both as to his own person and property as any free-man. But if the question were brought before a Civil Court, there appears to me no doubt that the rights as laid down in the law would be restored to the master.

• Answer to Question 2d.

The Criminal Courts do not interfere between master and slave except for ill treatment, or any act which may militate against the law of nature. In the former case, moderate correction of a slave by his master would not be considered as a misdemeanour; but absolute cruelty to a slave would be punished in a similar manner as if the sufferer had been a free man. Complaints of this kind, however, are very rare.

In the latter case, such as an attempt to separate an infant child by sale or otherwise from its mother, the Magistrate would interfere. The latter part of this question I am unable to answer, as I have no work to refer to in which the indulgences granted to slaves in criminal matters are set forth.

• Answer to Question 3d.

Magistrates would undoubtedly be bound to afford persons in bondage, the same protection, from other wrong-doers than their masters, as they would to free men.

I now pass over the remarks which follow this question, the discussion of the points contained in which, appears more legitimately to appertain to the Supreme Court; and proceed to answer the query contained in the concluding part of paragraph 4 of Mr. Millett's letter, viz.,—by what law or principle the maltreatment of a Hindoo slave, by his Hindoo master would be considered as an offence cognizable by the Criminal Courts?

4. As I am not aware of any part of the Hindoo Criminal law being recognized either by Regulation or practice in the Criminal Courts, I should look upon this offence in precisely a similar light, as if it had occurred in the case of Mussulmans.

5. I cannot discover, that any case of the nature contemplated in the concluding paragraph of the letter noticed, has been litigated in the Courts here. The question, especially the latter part of it, is one difficult to answer; but I certainly should be of opinion that in this country, where slavery is customary, it would be inequitable, that the mere fact of difference in religion on the part of the master, should deprive him of that which is looked upon as property.

*Enclosure of the above, Mahomed Saber v. Badur, alias Bahadoor, Poocha, Janoo, Hanoo, Sheik Anoo, Robeah, Sonae, Mussumat Kajili and Mussumut Kanchance, slaves, and Ram Sundur Doss.*

Tried before W. J. TURQUAND, Esq., Magistrate, September 7, 1834.

Complainant states that his slaves Badur, Poocha, Janoo, Hanoo, Shaik Anoo, Robeah, Sonae, Mussumat Kajili and Mussumat Kanchance, twelve or fourteen years ago ran away to Ram Sundur Doss. The above named deny the slavery, pleading that they are the ryots of Ram Sundur, defendant; who supported this plea, adding that prosecutor's father made a similar charge some years previously,

and was mulcted fifteen rupees for false petition. From the evidence, it appears that the defendants were at one time complainant's slaves but that they lived a long time in Ram Sundur Doss' land. As the offence was committed twelve or fourteen years ago, it did not appear by the Magistrate cognizable, and the charge was, therefore, dismissed.

*Mahomed Zama v. Gholam Naya, Burkundass of Tajpoor Thanna.*

Tried before C. TUCKER, Esq. Magistrate, October 3, 1824.

Complainant states, that the defendant met his daughter on the road, and took her away to make slave of her.

Defendant states that the child is a daughter of Ghorce, a slave of his, but that complainant took her away about two years ago. As it appeared to be a case of disputed property in a slave, the defendant was released, the case dismissed, but the girl made over to her father, the complainant.

*Bujoram v. Harkishan.*

Tried before C. TUCKER, Esq., Acting Magistrate, September 19, 1825.

Complainant presented a petition stating that the defendant Harkishan having obtained a decree from the Dewanny against him and his brothers and mother as slaves, sold them against their will to Rajib Ram, whose intent it was to separate them to different parts of the country. In this case, the opinion of the Nizamut Adawlut was asked on the following question.

"A possesses a slave and sells him to another person for a sum of money. The slave admits that he is the slave of the seller, but presents a petition to the Magistrate saying that he is unwilling to remain as the property of the purchaser, he prays that the Magistrate will allow him to buy his liberty from the seller at the sum the purchaser was to give, and then be absolved from slavery. Is the Magistrate at liberty to act accordingly? The purchaser objects to the slave being able to effect this, and insists on his purchase being valid and on his right of retaining the slave."

The Court after consulting their law officers returned the following answer on the 5th of August, 1825.

"In reply, I am desired to forward to you a copy of the answer delivered by the Pundits of this Court (with a translation thereof) to a question which the Court thought proper to propound to them, the parties concerned in your reference appearing to be of the Hindoo persuasion. From this reply, the Court are of opinion, that the slaves, whom it is proposed to sell to one whose intentions they suspect and dread, may be allowed to select a purchaser with whom they are satisfied, and that in this, their proprietors must acquiesce. The answer however does not go the length of stating that slaves are competent to purchase their freedom from their masters, against the consent of the latter."

The prosecution was subsequently withdrawn, and no further proceedings held.



*Sheik Sookae v. Mahomed Sabir.*

Tried before RAM RAM PUNDIT, 9th November, 1829.

Complainant states that the defendant Muhomed Sabir and others came to his house and took away his mother Mussumut Badlee and his sister Mussumat Luckee, with her children Pool and Lung, and confined them in his premises—that he went with Shumsheer to defendant's house and was taking Lung to her home when the defendant beat him and Shumsheer and took Lung away. On receiving this petition, the Darogah was ordered to release the prisoners. His return reports that they were not confined. Defendant states that he did not beat the complainant or confine the woman; but that they are his slaves and he purchased them from Sheik Katae. From the evidence, there is no proof that complainant was beaten, and from the woman's account, it appears, that Sheik Katae sold them to the defendant and his brother Sheik Zackee. It was ordered that defendant should give a recognizance of fifty rupees not to molest complainant and to be released. No order was passed regarding the disposal of the women.

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*Har Govind Das, Gomastah for Mahomed Nazir Chowdree, versus  
Mussumat Pultee, Mussumat Sheshee, and Mussumat Ronhafzah.*

Tried before S. STAINFORTH, Esq. Magistrate, January 5th, 1835.

The complainant informed the Darogah, that the defendants Mussumat Pultee, Mussumat Sheshee, and Mussumat Ronhafzah were his slaves, and that they had run away from his house, taking with them two hundred rupees. The Darogah states, in his report, that it was not certain that the slaves had committed the robbery and the complainant was directed to prosecute by petition to the Court if he wished.

On the 3d January, 1835, Sanac, a servant of the complainant, presented a petition.—stating that the slaves had run away and though not certain where they had gone, he suspected that they were concealed in Gyazooddeen's premises, and on the same day Gyazooddeen also presented a petition stating that the slaves were his, and that the complainant was his brother and partner, and had taken away the slaves by force, and while with him they had quitted him on account of ill-treatment. As it appeared from the petitions of both parties that it was a question of disputed property in slaves the parties were referred to the Dewanny. This award was confirmed on appeal to the Commissioner J. Louis, Esquire.

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*Sheik Bazir v. Faiz Mahomed.*

Tried before Molovee HALEEM OLLAH, Cazy, February 19th, 1835.

Complainant states that defendant took away his wife Mussumat Kutkee, who is prosecutor's slave, and would not restore her. Defendant denies having taken the woman, and states,—that Bazir, the prosecutor, and Mussumat Kutkee, are his slaves,—and that they were the slaves of his grandfather Maha Hoshen, on whose death they served him and his aunt Jhan Bebee,—that a year ago, the complainant ran away to Mahomed Kaleem and now presented his petition to get his wife away from the defendant. Mussumat Kutkee says she is the defendant's slave and consents to remain with him. It was ordered that defendant be released and Kutkee go where she pleased.

Complainant appealed to the Magistrate J. Stainforth, Esquire, who confirmed the order.

*Mussumat Hera Bebee and Shek Sedal v. Mahomed Sirdar.*

Tried before Molovee HALEEM OLLAH, Caze, March 7th, 1835.

Complainant states that the defendant Mahomed Sirdar wished her to give him a written agreement of servitude; and on her not consenting, the defendant took her daughter Rhinoo and confined her in his house. After the complaint was made, the complainant stated that she had found her daughter and that Sedul had received her from Danae, a friend of Mahomed Sirdar, defendant. Defendant pleads that Mussumat Hera is his slave and that she left him taking with her a daughter called Augenah and another whose name he forgot,—and that Rhinoo remained with him,—that he sent Rhinoo with Danae his friend to appear as summoned, and in the way Mahomed Raheem and others took her away.

As the complainant only wished to recover her daughter, it was ordered that Rhinoo be made over to her mother if she desires it, and defendant to be released.

*Mussumat Earamby v. Sultan Mahomed.*

Tried before Moulavee HALEEM OLLAH, CAZY, November 12, 1835.

Complainant states that she is the slave of one Rajeeb-ooddeen, and that the defendant seized her and attempted to marry her, to a slave of his own named Rubby-ollah, against her will. Defendant pleads that complainant is the wife of Rubby-ollah, but from the evidence of witnesses in a cross case brought forward by the said Rubby-ollah, it appears that the marriage was not legally consummated: and as from evidence in this case, there is proof of the defendants having seized complainant for the purpose asserted, it is ordered that the defendants Sultan Mahomed and Rubby-ollah give a recognizance each to the amount of fifty rupees not to molest the complainant in future.

*Jhan Bebee v. Mussumat Salam.*

Before A. C. BIDWELL, Esq., Acting Magistrate, July 8, 1836.

Complainant stated that, the defendant Mussumat Salam had adopted her daughter and promised to have her married; but that afterwards she tried to persuade the girl Nowab Jhan to prostitute herself, and on her refusing, beat and confined her. The Darogah was ordered to release the complainant's daughter and to investigate the case. In his report he states that the complainant's daughter Nowab Jhan was not confined: and that she was the defendant's slave, but complained of ill-treatment; and as it appeared to be a case of disputed property in a slave, she was released and the parties were referred to the Civil Court.

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*Mussumat Sundur and Anarkalee v. Muhomed Idris, Principal  
Sudder Aumeen.*

Before A. C. BIDWELL, Esq. Acting Magistrate, August 11, 1836.

Complainants state that they are the slaves of defendant who beat them. Mahomed Idris being required to offer an explanation admitted that he had beaten them slightly—pleaded the custom of the country to beat slaves for disobedience or neglect. On this, the Sudder Aumeen was warned, not to beat his slaves with severity.

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No. 51. *Answer of Mr. C. W. Steer, Commissioner of Circuit, Bauleah,  
dated 25th May, 1836, to the Register of the Nizamut Adaw-  
lut, Fort William.*

2. In reply, I beg to state that never having had an opportunity of giving the subject due attention, and never having had a case of the kind before me, I feel quite unprepared to offer any suggestions, or remarks on the subject.

3. I should conceive that the cases, likely to come before our Courts, would (whatever may be the precise laws on the heads, as existing among the Hindus and Mahomedans,) in their civil capacity, be treated as common contracts,—and in their criminal, by the rules of master and servant, under Regulation VII. 1819.

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*Answer of Mr. R. Barlow, Judge of Zillah Rajshahee, dated 23d June, 1836, to the Register of the Court of Sudder Dewanny Adawlut, Fort William.* No. 53.

2. I do not remember having ever entertained a case between master and slave, either on the civil or criminal side of our Courts.

3. Under the spirit, though not the letter, of Section 15, Regulation IV. of 1793, (upheld by Section 8, Regulation VII. of 1832) I apprehend the claim of a Hindoo to a Hindoo slave, and of a Mussulman to a Mahomedan slave, might be recognized in the Dewanny Adawlut,—when the question would be disposed of according to the Hindoo or Mahomedan Law, as the case might be. But in a suit, in which the parties are of different persuasions,—excluding such suit from the provisions of the 15th Section of Regulation IV. of 1793, and bringing it within the pale of Section 9, Regulation VII. of 1832,—I am of opinion, the section of the latter Regulation ought to rule the decision; which should be governed by the principles of justice, equity and good conscience. In the matter of others than Mahomedans and Hindoos, the last mentioned section appears to me, to bear strongly against right of property in a slave; as slavery is no where recognized by our Regulation law in such case.

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*Answer of Mr. H. T. Raikes, Officiating Magistrate of Zillah Rajshahee, dated 11th July, 1836, to the Register to the Court of Nizamut Adawlut, Fort William.* No. 53.

I have the honor to observe, that no case, involving any of the points alluded to in Mr. Secretary Millett's letter, has ever been brought officially before this Court. It is notorious that slaves are domesticated in the families of many of the wealthy Mussulmans in this District,—but (I have every reason to believe,) without the supposition that the interference of the Criminal Court is more circumscribed with regard to their conduct or treatment of these individuals, than of any other class of the community.

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*Answer of Mr. J. B. Ogilvy, Officiating Joint Magistrate, Pubnah, dated 11th January, 1836, to the Register of the Court of Nizamut Adawlut, Fort William.* No. 54.

I have the honor to state that the records of this office do not shew, that the existence of slavery in this part of the country has ever come under the notice of the Court. I am unable, therefore, to furnish the required explanation of the practice of this Court, where none has existed, in recognizing the relative rights of slaves and their masters.

I am led to believe however that slavery is not known here at all.

No. 55. *Answer of Mr. J. Taylor, Joint Magistrate of Bogra, dated 9th April, 1836, to the Register to the Court of Sudder Dewanny and Nizamut Adawlut, Fort William.*

In reply, I beg leave to state that, as far as I have been able to ascertain from inquiries instituted on the subject, the system of slavery in any extended sense does not prevail in this district. The only cases in which it is stated to exist being,—in the occasional purchase of female infants for the demoralizing purpose of prostituting their persons in mature years,—and for the very best and benevolent of intentions,—adoption.

On a reference to the records of the office, it does not appear that a single case touching the question of slavery has ever been brought to issue before this Court since its establishment. I am, therefore, prevented from citing any particular law or principle which has hitherto been recognized by the several presiding functionaries. My own view of the question however, (and there can be no doubt that it is the prevailing one with most Magistrates,) has been, not to recognize any system of slavery as authorized by the Regulations of Government in cases brought officially before me;—though such power, in the absence of any direct rule for the guidance of Magistrates, can, I conceive, be considered only in the light of a discretionary one.

In reply, then to the first paragraph of the Secretary's letter, I would observe that no legal rights of masters over their slaves are practically recognized by the Magistrates, either as regards their persons or property.

On the same principle, in reply, to the second paragraph I would add that the relation of master and slave is not recognized as justifying any acts, which otherwise would be punishable in our Courts: but that on a complaint being preferred by a slave of cruelty or hard usage, he would be considered equally under the protection of the Civil Magistrate with any other persons residing under his jurisdiction, and that if he stated himself to be living under restraint he would be allowed to go free.

The third paragraph would seem to be replied to in the above, that a slave is considered precisely upon the same footing, as regards his claim to protection, with any other subject of the provinces.

Paragraph the fifth having reference to the Civil Court alone, I conceive, calls for no reply from me.

In conclusion, I would beg to remark, that the prevailing idea amongst the natives now is, that slavery has long since been abolished, and the system has to all intents and purposes ceased. Should the India Law Commissioners, therefore, have it in view to prohibit the practice *in toto*, I have no hesitation in saying it might be done tomorrow, without the slightest inconvenience resulting.

*Answer of Mr. T. A. Shaw, Civil and Session Judge of Rung-  
poor, dated 22d June, 1836, to the Register to the Courts of  
Sudder Dewanny and Nizamut Adawlut, Fort William.* No. 56.

2. After the fullest enquiry, and search into the records of the Civil Judge's Office; it does not appear that, any case has been instituted in this Court, in which a slave has been a principal party, against his master; or vice versa, the master against his slave.

3. With reference to the rights of slaves in criminal cases,—in this part of Bengal slavery exists in its very mildest form. It is generally understood that in practice, during the British rule, the right of the slave, to obtain redress in all criminal matters, has been equal to that of other subjects: and herein the rights of slave holders have become almost nominal.

4. With reference to their rights in Civil matters. From some cause or other—whether it be the extreme mildness of slavery as found here, or the incompatibility of its existence where our laws are in full force,—it appears that, suits involving the respective rights of masters and slaves, in all civil matters, whether of possession, of inheritance, marriage, or the like for many years past no suits have been instituted in the Civil Courts of this district. The arbitrary sale of slaves by their masters is understood to be very unfrequent. In the execution of decrees, it is extraordinary, that (although all other description of property has been sold, even to the disposal of Hindoo Idols to competent Hindoos.) the sale of slaves has been exempted. It appears still more extraordinary, when we find that the sale of children is allowed and used to be registered: and instances are not uncommon of Mussulmans and Hindoos selling their wives on account of enmity or for gain. But these latter cases never appear in the Civil, and seldom in the Criminal Courts. *Sic in orig.*

In case of the contemplation of any law, which shall regulate the sale of slaves, or direct its abolition, I would urgently recommend that, the transfer of infants, by their parents or natural guardians, should be sanctioned, (whether made with or without any consideration) without restriction as to time, whether of famine or of plenty,—or as to the party offering the transfer; as none but the very poor will dispose of their offspring. This system of transfer does now exist and is prevalent in its very worst form,—that of the sale of young girls for the purpose of gain by their prostitution. This measure should be sanctioned by law, not merely not prohibited, as not being immoral, as being in conformity with the habits of the people over perhaps the whole of India, and as being the sole cause of preservation of the lives of thousands of infants.

*Answer of Mr. H. F. James, Magistrate, Rungpore, dated 23rd June, 1836, to the Register to the Court of Nizamut Adawlut, Fort William.* No. 57.

I beg to state that from the records of the office, I am unable to learn that any cases of slavery, or of the powers of masters over slaves, have ever been tried in this Court. And that as slavery is not recognized by the Regulations, I consider that slaves ought to be allowed the same redress and afforded the same assistance from the ill treatment of their masters as free persons.

There is one species of crime, very common in this district, approximating in some degree to slavery, and which I consider without digressing from the subject under discussion may be mentioned in this place. It is that of parents selling their female children to prostitutes, who bring them up in the same infamous and degraded course of life as their own, and who in some measure retain a personal controul (though not recognised by the Courts) over them, and in some cases dispose of them again to other prostitutes.

Many cases have been brought to my notice of this nature, where the prostitutes have applied to this Court to get back the children who after purchase may have absconded. In such cases, I have made over the children to the parents and punished all parties that I considered deserving of it;—though I am not aware of any regulations sanctioning such proceedings.

No. 59. *From Captain A. Davidson, Officiating Register and Magistrate Zillah Goalparah, North East Rungpore, dated 10th July, 1836, to Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.*

I beg to offer it as my opinion, that our Courts would fully recognize the power of the master to sell the person of his slaves, and would not admit that the slave could have separate and independent property of his own.

Our Criminal Courts would not punish masters, for inflicting such moderate punishment upon the slaves, as might appear necessary to insure obedience or diligence in the performance of his duties. But should the master have inflicted cruelty, I am of opinion, he would be liable to the usual punishments of fine and imprisonment.

I am not aware of any such cases as are contemplated in the 3d paragraph.

In the district under my charge, I am of opinion, that in ninety cases out of the hundred, those held as slaves are not so legally either by Mahomedan or Hindoo law; but their slavery has originated either by their forefathers having made themselves bondsmen by borrowing small sums of money, (which bondage ought to have expired with their lives) or the descendants of cultivators, who have died in debt, either to the Zemindars, or persons holding small farms under them: as experience has proved to me, that neither would scruple to compel the widows or children of their deceased bondsmen, or insolvent deceased cultivators, to give them written engagements of being slaves or bondsmen for life; and this instrument would cause the parties and their descendants to become slaves in perpetuity.

*Answer of Mr. J. Wyatt, Civil and Session Judge, Dinagepoor, dated 25th June, 1836, to Register to the Courts of Sudder Dewanny and Nizamat Adawlut, Fort William.* No. 39.

During my experience in India as Magistrate, and subsequently as a Civil and Session Judge, no cases have fallen under my cognizance involving the rights of masters over the persons and property of their slaves,—with the exception of two or three suits which were instituted in the Civil Court of Zillah Mymensingh, (in which District slavery, I believe, is extensive,) disputing the vested property in the slave; which to the best of my recollection, were all dismissed, for want of documentary evidence, nor do any cases connected with slavery appear from the report of the Record-keeper of this Court even to have been instituted in it. Whence as far as the rights are practically recognized in the Civil and Criminal Courts to which I have been and am attached, I regret I am unable from my own experience, to afford any information.

3. From all the intelligence however I have been able to collect from the best sources of information, in this district, it would appear that there is no original slavery in this district, as described by Mr. H. T. Colebrooke. The kinds stated to exist are those arising out of the sale and gift of offspring by their free parents in consequence of their being too poor to maintain them. This practice seems to have prevailed so far back as 1807 by the few observations made by Dr. Buchanan on the subject in his Geographical, Statistical and Historical description of this District. He says—"Poor parents, in times of scarcity, many give their children to persons of rank, as slaves, and are sometimes induced to sell them to prostitutes. This however is quite contrary to Hindoo law, although such parents are not liable to excommunication."

4. The Mahomedans forming by far the greater portion of the population here, are the principal owners of these slaves; whom they, as well as Hindoos, buy, (I am credibly informed,) without any writing being entered into, as children of about six years old, for a few rupees,—the price seldom being known to exceed ten rupees; as it too often happens that these children when they arrive at maturity or before, then runaway from their masters; whence the latter never like to risk much upon their purchase. They feed, clothe and marry them, and the slaves look upon them as parents, and perform easy household work for them,—the girls being chiefly required to attend upon the females, composing the master's family. Their being more cheaply maintained than hired servants is, I suppose the chief inducement to their acquisition,—a slave for his daily food and two sets of clothes, costing about eighteen rupees per annum, while a hired servant by getting his daily food and wages at one rupee four annas a month, costs about thirty rupees yearly.

5. Little (as it appears to me) as slaves are capable of acquiring for themselves in the shape of property,—the opinions of the best informed among the natives, both Hindoos and Mosulmans, whom I have consulted as to the rights they conceive masters to possess over the property of their slaves, seem to vary;—some thinking that slaves are free to acquire any property they can without its being liable to be seized, claimed or interfered with in any way by their masters, only that on their death the master can only be looked upon as the legitimate person to whom any property left would descend;—while others consider that they can create no property for themselves, that all they make belongs to their master.



6. As to the right over their persons,—but one opinion seems to prevail, viz. that they have no extraordinary right;—that they can moderately punish their slaves, —but if they exceed that moderation of punishment, they must, like persons who are not masters, abide the consequences, and be punishable by the Magistrate.

7. It seems to be the general opinion that very little oppression, if any, is exercised over slaves in this district;—on the contrary that they lead rather an easy life, and in the case of those masters who have inherited slaves for two or more generations, I have heard some say that they would not feel it a loss if they were deprived of their slaves by an act of liberation on the part of Government,—in as much as from having lived long in their family, they become much less attentive and useful than hired servants, conceiving that they cannot be turned off, that their masters must support them and so become rather a burden on their support.

8. As the decisions, however, of judicial tribunals can only be properly regulated, by what the Hindoo and Mahomedan laws may prescribe in respect to the rights of masters over the persons and property of their slaves,—Sir Thomas Strange, formerly Chief Justice of Madras, has made the following observations on the Hindoo law as applicable to the person of the slave. “That the owner has the same power of correcting his slave, that belongs to a master over his servant, is implied “for he is one of the most abject kind and a runaway slave is reclaimable.” (1) “But, if a slave pledged, refuse to work, complaint should be made to his owner who “must assign the pledgee another; such slave while in the possession of the latter not “being liable to be beaten by him. (2) That the master has power over his slave’s “life, no where appears; and here construing “servant” in the text cited from “Menu to comprehend slave, that great legislator and Sir Wm. Jones are agreed that “in the exercise of such power over him as by law he has it at his peril if it be “immoderate, according to the consequences that may ensue. (3) But with the “exception stated it is competent to him to compel him by force, not being excessive “to do whatever work he orders him to perform; in which consists mainly the “difference between a slave and a servant. (4)

In respect to his property the same authority observes.—

“It is certain the latter (slave) can only acquire for the benefit of his master: “possessing his person he possesses every thing that can relate to it, nor can the “slave have any property that he can call his own but by his master’s consent;” (6) and in the 6th Chapter of the 2d volume of his work on Hindoo Law gives several instances of judicial decisions of two of the Zillah Courts in respect to property.

9. But Mr. H. T. Colebrooke appears to have described the Hindoo and Mahomedan laws as possessing unlimited power over the slave; but which in regard to his person (however Mr. Colebrooke’s exposition of Mahomedan law is considered not to be exact) has obtained the interposition of British authority by the enactment of Regulation VIII. of 1799, disallowing to the master exemption from Kissas in case of the murder of his slave; from the time of which enactment slaves have not been considered as out of the protection of the law in cases of murder or barbarous usage.

10. No criminal cases in which have been involved the connection between master and slave having, as I have before stated, fallen under my cognizance as Magistrate or Session Judge,—I am unable practically to speak upon the points contained in this query. But in the event of any cases implicating the conduct of master or slave coming before me in the capacity of a Magistrate, I should think they were justified in committing no serious act which would not be punishable, if committed by a freeman. I should likewise punish the master as I would any other offender,

(1) Nareda, 2 Dig. 237.

(2) Catyayana, 1 Dig. 153.

(3) Menu, 2 Dig. 209.  
Sir W. Jones’ charge, June 1785.

(4) Nareda, 2 Dig. 222.  
Rkasapate Idem—223.

(6) Menu, VIII. 416, 417.  
Nareda, 2 Dig. 237, 249.  
1 Dig. 16.  
Catyayana, 2, 252.

if convicted of cruelty or bad usage of his slave. As to the indulgences granted to slaves in criminal matters by the Mahomedan law,—I am not exactly aware to what allusion is meant. But, I am inclined to think no indulgences would be shown to them by Magistrates, but that they would be punished to an equal extent with other offenders.

11. I have never heard of any such cases. Other wrong-doers, I should think would be equally punishable with masters for offences committed against slaves.

• Answer of the 3d Question

12. Independent of what I have cited as the interpretation of the Hindu law by Sir Thomas Strange in regard to the master's power over the person of his slave,—by the law of Menu which is supported by the authority of other Hindoo legislators as Barhusputtee Missur, Rogoonundur Sharuth, Gopal Nayaipunchanund and others, it is literally laid down that—"If a wife, son, slave, disciple, and younger brother, commit any offence, they shall be punishable by being bound by a rope, or beaten with a bamboo switch (Bena-dul,) or by any other mild means, but they shall not be struck on the head. Should this measure of punishment be exceeded, the inflicter shall be held responsible for it to the ruling power."

• Answer to the 4th Question

Thus it is clear that mal-treatment beyond the slight punishments prescribed by Menu of a Hindoo slave by a Hindoo master is legally cognizable by the Criminal Courts on the part of Government.

13. No. I should think the Courts would not support the claim of a Mosulman over a Hindoo slave in the way the question is put, the slavery by the Mahomedan law being illegal; and vice versa, it being necessary that the claim of the plaintiff should be supported by his law.

• Answer to the 5th Question

14. No. I should think the Courts would not admit and enforce any claim to property, possession, or service of a slave, but on behalf of a Mosulman or Hindoo claimant, and against a Mosulman or Hindoo defendant.

*Answer of Mr. G. T. Shakespear, Officiating Magistrate, Dinagepur, dated 17th February, 1836, to the Register to the Suddur Nizamut Adawlut, Fort William.*

No. 60.

In reply, I beg to state that the question,—what are the legal rights of masters over their slaves?—practically recognized in our Courts, is one which I am not qualified for fitly answering. During the few years I have been in the service, and actively employed, I have never met with a trial involving the respective rights of masters over their slaves or slaves from their masters. I shall confine myself, therefore, merely to remarking that, had a trial of the description alluded to come before me for decision, I think that my English mode of thinking (if I may be allowed such an expression) on the subject, would have led me to afford the same protection to a slave as to a freeman, and would have hindered me from admitting the relation between master and slave to be any sufficient ground for cruelty and ill usage shown towards the latter; and I would in such a case have punished the master as I would have any other person, in like manner offending and wholly unconnected with the slave. In cases of stealing a master's property, however, I should have

considered a slave in the light of a servant and awarded to him, for such an offence, the enhanced degree of punishment allowed by Clause 4, Section 3, Regulation XII. of 1818.

The above contains, to the best of my ability, my reply to paragraph 1st, greater part of paragraph 2d, and the commencement of paragraph 3d of the letter from the Secretary to the Indian Law Commission. With regard to the rest of that officer's communication, I must confess my complete inability to throw any additional light on the several points touched upon and unfolded therein.

- No. 61. *Answer of the Hon'ble R. Forbes, Officiating Magistrate, Mulduh, dated 15th of February, 1836, to the Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.*

I have the honor to intimate, for the information of the Superior Court, that no suits, embracing any of the points adverted to by Mr. Millett, having ever been instituted in this, or as far as I can recollect in any other Court in which I have had the honor to preside,—I regret my inability to furnish the Court with any information founded on my own practical experience on the subject.

- No. 62. *Answer of Mr. H. Nisbet, Judge of Purneah, dated the 30th December, 1835, to the Register to the Court of Sudder Dewanny Adawlut, Fort William.*

2. With regard to the practice of the Court, over which I preside, in matters regarding slavery, I have to observe that no cases involving any such matter have come before the Court, since I have been at the head of it. If any question of the kind were to come before me, I should endeavour to regulate my decision by what the spirit of the Regulations and the impulse of humanity might dictate on the occasion; and if necessary, I should call for a legal opinion from the Hindoo or Mahomedan Law Officer as the case might require.

3. It appears by the tenor of the Secretary's letter, and I am not prepared to gainsay it, that there are no definite legal provisions on the subject of slavery in the Bengal Judicial Code. The letter in question however, quotes one precedent, that of Nujoom-oon-nissa: and others, I have no doubt exist, (though I am not prepared to point them out,) in which, in absence of any express law, the rule of decision has been that of humanity, and the general principle of all British institutions, abhorrent of every thing like cruelty and oppression.

4. All the rights of a Mahomedan or Hindoo master, in reference to his slaves, sanctioned by the respective religious institutions of such persons, would be recognized by the Courts, if they did not militate against the humane spirit of the British laws. Where they did, a British Judge or Magistrate would, no doubt, feel fully

warranted in suspending the operation of the native law. The Regulations have expressly done it, in one instance, namely, in the provisions of Regulation VIII. 1799.

5. With regard to the second query in the Secretary's letter, the Court would, I conceive, so far recognize the relation of master and slave, as to uphold the right of moderate correction by the former. In case of actual delinquency, they would, in like manner, certainly punish unjust and tyrannical conduct on the part of the master towards his slave, upon proof of the same. I am not aware what the indulgences are, which in criminal matters are granted to Mussulman slaves: but certainly I should think, that the circumstance of the offender being in a state of servitude, would not exempt him from any consequences incident to an infringement of the rights of an indifferent individual, either in his person or property.

6. I know of no cases in which the Courts and Magistrates afford less protection to slaves, than free persons, against other wrong-doers besides their masters.

7. In reference to the subject of enquiry in the 5th paragraph of the letter under notice, my opinion is that, where the law binding on a claimant, did not sanction his claim upon the freedom of an individual, a British Judge or Magistrate would certainly not admit it. The question is a nicer one, as to whether a Christian or the professor of another religion than the Mahomedan and Hindoo, would be allowed to maintain a claim of slavery in our Courts. All are now equally bound by the laws administered in the Native Courts, yet I conceive a *British-born* subject would never, under any circumstances, be recognized as the owner of a slave, whatever might be ruled with regard to persons other than British-born subjects.

8. The principle of humanity would, I apprehend, lead a British functionary to favor the person, on whom a claim of slavery was made, wherever he could do it consistently with the spirit of the Regulations. The whole subject is one in which I have no doubt, a large discretion is felt to be allowable and a very loose administration of the Law to be excusable. Slavery is repugnant to the feelings, national and personal, of every Briton; and if I may presume to offer my individual opinion, it is this, that slavery under a British Government is a disgusting anomaly, and that it is one of those Gordian knots in our Indian jurisprudence that ought to be cut if it cannot be unloosed,—like the infernal system of Suttee, the abolition of which we owe to the fearless virtue and straightforward policy of our late Governor General.

*Answer of Mr. W. P. Goad, Acting Magistrate of Zillah Purneah,  
dated 24th March, 1836, to the Register of Sudder Dewanny and  
Nizamut Adawlut, Fort William.*

No. 63.

2. No case, involving the rights of masters over the persons and property of their slaves appears on the records of this office, from which I can ascertain the practice of the Courts.

3. With reference to the 2d paragraph of the Secretary's letter, I conceive, that the relation between master and slave might be recognized, in the case of the former having recourse to moderate correction in punishing the latter for any actual

delinquency. But in the event of cruel and unjust mal-treatment the same need of protection ought in justice to be extended to the unfortunate slave as to the free-man. The circumstance of an individual being in a state of slavery should not, I conceive, entitle him to any indulgent consideration in criminal matters, or exemption from the penalties incident to the infringement of the law.

4. I am not aware of the existence of any cases of the nature adverted to in the 3d paragraph of the Secretary's letter.

5. The principles of humanity and justice would, I imagine, be the basis on which a British Judge would consider himself justified in punishing a Hindoo master for the unjust mal-treatment of his slave, in the absence of any express law to that effect.

6. With regard to the question as to whether the Courts would support the claims of a Mahomedan master over a Hindoo slave, I am of opinion, that as the law, binding on the claimant, does not sanction his claim, the decision would be in favor of the slave: and under the same rule the claim of a British born subject or any denomination of Christian could not be recognized.

7. From enquiries that I have made among intelligent indigo planters, both *Europeans* and *East Indians*, who have had excellent opportunities of gaining accurate information, I am led to think that, the treatment, slaves receive in this country from their masters is almost universally kind and indulgent, and this will account for the paucity of complaints of oppression and tyranny. Nevertheless the very idea of slavery existing in a country subject to the rule of the British nation is a strange anomaly and every true Briton would rejoice to see this degrading system eradicated.

No. 64. *Answer of Captain T. Wilkinson, Governor General's Agent, Kishenpoore, dated 5th August, 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.*

2. Within the Divisions of Hazareebaugh and Lohurdugga, there are three classes of bondsman. Slavery prevails in every Purgunnah of the Hazareebaugh Division, and in Pulamow and Tooree of the Lohurdugga Division.

*First class.*—The slaves (Nuffers) whose offspring continue in slavery for ever: They are transferrable and saleable property. The offspring are the property of the owner of the female, and, if they run away from their masters, they can be recovered in the Court,—as was for years the practice in the Sherghotty Court previously to the formation of the Agency. A male slave, residing in Kurruckdea and belonging to a person in that Purgunnah, if married to a female whose master resides in Pulamow, 150 miles off,—the master of the female has the right to remove her and children to his own home, separating them from the husband and father,—unless he can obtain his own master's permission to accompany them. Youthful females of this class sell for from twenty-five to eighty rupees. Youthful males of this class sell for from twenty-five to forty rupees. This class are almost exclusively of the Kuhar caste, and are numerous.

*Second class.*—Shewuk (commonly called Sawuk) or Kummea. This is a bondsman who sells himself for life. He receives from a person a sum of money and

executes a deed Shewuk Puttra, binding himself to become that person's slave for life; he cannot be released from his bond, though he tender payment of the money he received. The deed in no way affects his children. The parent cannot sell the child to his own master, nor to any other person. The master generally pays the expences,—I believe always—of the marriage of the Kummea and feeds and clothes him. To make the sale of a person by himself good, agreeably to the custom of the country, it is necessary he should have attained his majority. It generally happens that the son of a Kummea sells himself to his father's master. This class of slaves are transferable and saleable property. The price of one varying from ten to forty Rupees. The following castes chiefly compose this class, viz. Bhoogas, Koormees, Gowallas, Kandoos, Boghtas, Khyrwars and Dosada. Sheewuks are very numerous.

Third class. Bundick Sheewuk or Kummea. This is a bondsman, who borrows a sum of money from a person, and engages by a written deed to serve the lender, until he pays the principal. The principal paid, the bondsman is released,—unless where he absents himself from his work. Under such circumstances, for as long as he may be absent, it has in some cases been the practice of the Court, I understand, to award interest. This class are fed and clothed by their masters, and they are entitled at the harvest to a bundle out of every twenty one of grain, which they cut and carry to the Kullyan, or place of beating out. The advances made to this class of bondsman may vary from one to twenty Rupees.

3d. Over the persons of the three classes specified, the master has a legal right to the extent above indicated. By the custom of the country, the master has no right over the property of the slave; and in the event of the death of one having considerable property, (which is not a rare circumstance,) the property is inherited by his wife, and children, although they may belong to another master.

4th. Neither the Hazareebaugh Assistant, Lohurdugga Assistant, nor I, have ever had a case before us, in which a bondsman has complained against his master of cruelty or hard usage. I learn however from several persons, who are masters of bondsmen, that, when complaints were preferred in the Sherghotty Court, that the same protection was afforded to the slave, as to any other complainants; and I should certainly grant it, from the full conviction that the master considers the slave entitled to it.

5. There are no cases, in which the Courts would afford less protection to slaves than to free persons, against other wrong doers than their masters.

6th. I am not able to quote any law, by which the Courts have authority to interfere in protecting a Hindoo slave. But that the Courts do protect them is undoubted.

7th. I do not find myself able to give a satisfactory reply to the 5th\* paragraph of Mr. Millett's letter. I have never had any case before me, of the nature contemplated by the Regulation quoted. From enquiries I have made, I learn that the three classes of slaves I have mentioned, are in the possession of both Hindoos and Mussulmans, and that the same right has been allowed to the Mussulman over the Hindoo slave, by the Sherghotty Court, that was allowed to a Hindoo over a Hindoo slave,—the custom of the country having been the guide, I have not been able to hear of any instance, in which a Mussulman slave of the one or two classes has been in the possession of a Hindoo; although there are instances of Joolahs, having become Bundick Shewuks, who could claim their release, on the repayment of the cash they borrowed.

\* See Letter from the Law Commission, No. 1.

8. In Ramgurh and Kurrukdea, I may with safety say, that one-third of the whole population are slaves, belonging to one of the three classes above-mentioned. Those of the 2nd class are the most numerous; and in none of the classes, is there any provision for those slaves who from old age, or from any other cause become unable to work,—so that, if they happen to have no families to support them, they must depend on charity.

9. I herewith transmit the replies, I received from my Assistants. The Assistant in charge of Maunbhoom Division, observes that no precedents are found in the records of the Court tending to elucidate the subject under reference. From information, however, I have received from other quarters, I learn that there are both Nuffers and Kummeas, in Katrass, Jherrea, Nowagurh, and Toondee Purgunnas adjoining Kurrukdea; but\* in the Jungle Mehal Zillah.

*Sic orig and qu.*  
Not.

No. 65. *Enclosure to the above, from Lieut. J. Hammyngton, Assistant to Agent of the Governor General, Manbhoom, dated 3d February, 1836.*

I have the honor to inform you that, no precedents are found in the records of this Court, tending to elucidate the subject under reference.

No. 66. *Enclosure of Captain Wilkinson's Letter from Captain L. Bird, Principal Assistant to Governor General's Agent, Hazaribagh, dated 14th January, 1836.*

With reference to the first part of your letter,—as I consider the several points to apply to Mussulman slaves (which there are none in my district as far as I have been able to ascertain.) and as my very limited knowledge of what may be the practice in the Company's Courts renders me by no means competent to give an opinion even if there were,—I proceed to state what is the usage in my district and the practice of my Court with regard to Kummeas, by which I understand bondsmen in a modified sense.

*Sic in orig.* There is no particular law by which this state of bondage is permitted or authorized: but it appears to have been the custom and usage in this district for a series of years. The several Zemindars and Landholders,—unable to till the lands themselves, and finding, no doubt, that the cultivation in its\* their rude state, did not bring sufficient returns to afford payment for free labour,—introduced the system of Kummeas; by which, on a trifling advance and at a very little expence, in the shape of grain for subsistence, they secured the service, not only of the individual who bound himself, but of all his family.

The individual thus binding himself executed a Saunknama, engaging that for the money received, he would serve until the amount was repaid by him. In some cases, engaging only for himself,—and in others for the whole of his family and descendants, in perpetuity.

For the services rendered by the Kummeeas, they are fed and clothed by the proprietor or master; at whose expence their children are also married; and as advances for *this* purpose are required, fresh Saunknamas are given in the names of their children.

Having no means of ever repaying the money advanced, (as the grain given is barely sufficient to support them,) the option of purchasing a release becomes a dead letter; and they remain for generations under the same proprietors, and his heirs, and on the division of property, they are divided in common with all quadrupeds, etc.

Formerly it appears to have been the custom to acknowledge the right of a proprietor to the bondsman, and his descendants in perpetuity, and they were made over in the same manner as any other property. But since I have assumed charge of this Division, I have introduced a modification, founded (in the absence of any law on the subject) on principles of justice and equity.

From the few cases, of claims for possession of Kummeeas, who have deserted, which have come before my Court, I am inclined to think that they are generally satisfied with their situation; and in no one instance has any complaint of mal-treatment from Kummeeas against their proprietors or masters been brought before me,—although in my tour through my district, opportunities are not wanting to make known their grievances.

In fact this state of bondage, of long established usage, appears to the Kummeeas to have become the law of the land: nor do I imagine that it is either considered irksome or burthensome by them. And in this happy state of ignorance, they will continue until civilization and education teaches them that man is not intended to be a slave to his fellow man.

In my Court I admit the claim of a proprietor to a Kummeea, if it be the individual, who has executed the *Saunknama*—provided he was at the time of executing it of sufficient age to judge for himself. But I do not recognize his right to the possession of minors or females.

Where minors have succeeded to any property from their fathers (a Kummeea), I hold them answerable for the sum advanced on the *Saunknama*,—subject to be tried for in the same manner as any other claim.

As I have before stated no cases of mal-treatment have ever come before me but were any to be brought forward I should extend the same protection to Kummeeas as I would to freemen; and in aggravated cases, should consider the Kummeea absolved from continuing his services to his proprietor,—but answerable still for the debt to be sued for, as any other debt.

Were any Regulation to be framed on this subject,—I would suggest that the system be permitted in this district (in the modified view I take of it), as I consider it necessary for the purposes of cultivation,—the Kummeea binding himself to be constrained to serve his proprietor and his heirs, during the term of his own life, provided the proprietor does not forfeit his claim by mal-treatment.

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No. 67. *Letter from Mr. J. Davidson, Principal Assistant to the Governor General's Agent in Chota Nagpoor, Camp Tomar, dated 24th January, 1836, addressed direct to Secretary to the Law Commissioners in reply to their Circular.*

1. The system of slavery alluded to is known by the name of Sawuk, and prevails very extensively in Ramghur, Kurruckdeea, and Palamow. There are several kinds of Sawuks. 1st, hereditary slaves, the condition of whom is much the same as that of slaves in other parts of India; 2nd, slaves for their own life only (called Bunda Sawuk); the children of this class are not slave; 3rd, slavery for debt (called Chootta Sawuk); individuals of this class are entitled to their freedom on repayment of the debt stipulated in the bond (or Sawuknamah.)

2d. Slavery, in one or other of the above forms, is so general in Ramghur and Kurruckdeea and Palamow, that a great majority of the agricultural labourers in those countries are slaves. Their condition in general is very miserable. They receive barely sufficient food to keep them in working condition,—in some cases are obliged to find their own clothes,—and in others are entitled to a piece of coarse cloth yearly.

3d. Men generally become slaves by falling into arrears to their landlords, from bad seasons, or other similar accidents, or from borrowing money for the performance of marriage ceremonies. Being unable to pay, they are compelled or persuaded to write Sawuknamahs for the amount of their debts, and thus become slaves,—frequently for life, and very often the same miserable condition extending to their children. The smallness of the sums, for which these bonds are occasionally executed, is almost incredible. I once had a case before me when in charge of the Hazareebaugh Division, where the amount stipulated in the bond was only one rupee; and the amount of the debt, for which these men sell themselves is generally less than twenty rupees.

4th. It is always an object with farmers and landholders to have as many slaves as possible; and the facilities they possess of making up their claims of debts against poor and ignorant ryots are very great. The consequence, as above stated, is that a great majority of the agricultural labourers are slaves.

5th. If a poor man, when in debt, objects to write a bond binding himself to slavery, the creditor prosecutes him in our Courts; and as the claim has always some foundation, although often the amount of it is exaggerated, finds no difficulty in getting a decree in his favour,—after which the threat of imprisonment in execution of the decree speedily compels the unfortunate debtor to agree to the terms required, and he executes the bond. In numerous cases I have seen great unfairness; used in attempting to make out a claim, against a man who it was notorious had no property whatsoever and this for the sole object of getting the debtor to bind himself as a slave, in satisfaction of the decree.

6th. The sons of slaves, whose condition does not extend to their children, are always advised to marry as soon as they become of age. The master of the father advances money for the performances of the necessary ceremonies, generally less than ten rupees, on condition that the boy binds himself by a bond similar to that by which his father is bound. This he almost invariably does, and so renders himself a slave for life, or until the money is repaid, according to the terms stipulated in the bond.

7th. To the existence of this system, we have no means of applying any efficient check. According to the custom of this part of the country, the bonds do not require to be authenticated by the Register or the Kazee or any other authority, and are most frequently written on unstamped paper.

8th. That such a system must give rise to great oppression amongst an extremely poor and ignorant population, must be obvious. That it is injurious to the country, by reducing so great a proportion of the population to a condition, in which they are uninterested in its prosperity, is equally so.

9th. Under the actual condition of Ramghur, Kurruckdeera and Palamow, I do not believe it is possible, to regulate this system in such a way, as to render it materially less oppressive than it is at present. I beg, therefore, to suggest that the only effectual remedy, for the evils above alluded to, is to abolish the whole system, by declaring, the sale or pledge of free persons whether by their own act or that of their parents, illegal.

10th. Some embarrassment would at first be felt by the farmers and landholders; but, as the measure would only have a prospective effect, and would not interfere with their present stock of slaves, they would gradually, as their slaves died off, fall into the way of employing the same class of persons as free labourers, that they now do as slaves: and I should not therefore anticipate that any great inconvenience would be felt by the slave owners by the proposed measure.

11th. Should it be determined to carry this measure into effect, I beg to suggest an exception, which, I think, on grounds of humanity ought to be made to the prohibition of the sale of children by their parents. I mean in seasons of great scarcity, when it ought to be permitted. On such occasions, there is no doubt that the lives of many children who would otherwise perish from starvation, are saved by their parents selling them. A very few simple rules would suffice to prevent this qualified permission being abused, so as to defeat the general prohibition.

*Enclosure of Captain T. Wilkinson's Letter (A) from Mr. J. Davidson, the Principal Assistant to the Governor General's Agent, Camp Tomar, dated 20th July, 1836.*

No. 67. (A)

2. In reply to the 1st\* paragraph of Mr. Millett's letter, I beg to state that slavery only exists in this Division in the two Pergunnas of Torree and Palamow. In respect to which, the Courts recognize the legal rights of the master over his slave, as fully as that of an owner over any other description of property; and his right to sell, transfer, or mortgage his slaves is considered unquestionable. In regard to the property of slaves,—no right over that on the part of the master is recognized. It is considered to belong exclusively to the slave as completely as if he were a free person.

3. In reply to paragraph 2d,—the Courts recognise the right of the masters to correct their slaves moderately, provided it is not beyond what appears fairly necessary for the support of order in their families. Should the measure of correction appear to have been beyond what is fairly necessary for this purpose, the Court would grant protection to the slave. But on this point, I beg to state, that I have never had any complaints of ill usage preferred against their masters by slaves. This is perhaps partly owing to their having, in general, little to complain of; but chiefly to the circumstance that slaves who are on any account discontented with

\* See Letter from the Law Commission, No. 1.

their masters are in the habit of absconding : and the difficulty the masters find in compelling their return to servitude is a great check to any tendency towards ill usage on their part. There are no Mussulman slaves in this Division.

4. There are no such cases as those contemplated in paragraph 3rd. Slaves are considered to have the same right in regard to parties other than their masters as free men have between man and man.

5. In reply to paragraph 4,—it is difficult to cite any written law by which a Magistrate is authorized to interfere in protecting a Hindoo slave from the cruelty or ill usage of his Hindoo master. But, that the Courts do protect slaves under such circumstances, is certain—probably under the influence of a feeling on the part of the Magistrates, that they are bound to afford protection to all, the free and the slaves, and without enquiry whether such interference is or is not in accordance with certain maxims of Hindoo criminal law; which have never been practically in force in India, since the establishments of our Courts, and which are incompatible with the existence of any rational system of law, administered by men of education and humanity.

6. In reply to paragraph 5th,—the Courts would not support the right of a Mussulman master over a Hindoo slave in the case supposed, or vice versa. In respect to the supposed case of claimants of slaves other than Mahomedan or Hindoo, the Courts would not recognize the right of British-born subjects, who might claim possession of slaves. But in respect to other classes, such as Parsees for example, they would, I should say, in the absence of any law on the subject, be guided by the custom of the country; whatever on proper enquiry that might appear to be.

No. 68.

*Answer of Mr. C. Harding, Commissioner of Circuit, 12th Division, Bhaugulpore, dated 28th January 1836, to the Register of the Court of Nizamut Adawlut, Fort William.*

• Answer to question 1st.

My experience leads me to the conclusion that, the Courts of Justice have been generally guided more by the principles of the English Law as respects master and servant, than by the rules prescribed in the Mahomedan and Hindoo Codes, relative to the authority and privileges therein specified, regulating the respective duties and rights of master and slave.

• Answer to the 2d question.

2. Complaints between master and slave, are of such rare occurrence, and the practices of Courts so different according to circumstances, that it is impossible to reply to this question satisfactorily. If a master, without due provocation, seriously mal-treated his slave, he would probably be fined and admonished: if he moderately chastised him for impudence, disobedience, or neglect of duty, he would be considered justified in so doing. As above observed, the Mahomedan and Hindoo Laws have not been much attended to in cases of complaints of a criminal nature between master and slave. Such cases have been disposed of, according to their particular merits, on the principles of substantial justice, without reference to the laws of slavery, which have ever been discountenanced.

• Answer to the 3d question.

3. I am not aware of any.

*Answer of Mr. E. Lee Warner, Civil and Session Judge of Bhau-  
gulpore, dated 20th February 1836, to the Register to the Court  
of Sudder Dewanny and Nizamut Adawlut, Fort William.*

No. 69.

On the 1st\* question. I reply,—as far as my experience goes, there is no defined legal right either of the person or property of masters with regard to slaves recognized by the Criminal Courts.

On the 2d\* question. There is a general understanding that the master cannot mal-treat or punish with severity a slave; and if it be brought to the notice of the Magistrate's Court, the master would be fined or made to enter into a recognizance not to ill use the slave: but I conceive the services of the slave after what is customary would be allowed to the master. I speak of course *ceteris paribus*, that no act of undue severity would be permitted, nor on the other hand would petty complaints be attended to by the Court.

2. During the time, I held the office of Commissioner of Circuit for the Monghyr Division, a case came before me in appeal from the Joint Magistrate's order, directing persons who had been previously slaves to be released,—not on any proof of the master's mal-treatment or after any enquiry made into that matter; but the order was that the individuals on question after the expiration of the period of imprisonment (in consequence of running away from their master) should be at liberty to go where they pleased: in other words made free.

3. I beg to annex a copy of the Superior Court's orders to me and my reply; because it appears to me that some definite rule should be promulgated for the guidance of the Courts whether civil or criminal.

15th May, 1830.  
12th July, 1830.

4. I also beg to notice a case which came before the Session Court. The prisoner was accused of murdering Hunoman Singh, the master of a slave girl, the wife of the prisoner: and the prosecutor, son of the above master, deposed that the prisoner murdered his father, because he had objected to the wife, the slave girl going so often and leaving his service; and on her going away and not returning at the given time, he said "he would sell her, as she was of no service," on this threat, the prisoner, out of revenge, murdered his father. The prisoner was acquitted, as there was no proof against him; but it shews some law, regarding the power of masters over their slaves, is desirable.

Monghyr.  
Calendar, No. 1.  
September, 1835.  
Poorun Singh  
v.  
Akla Uhaook.

#### CIVIL COURT.

I have looked over the suits decided in the Civil Court for the past ten years, and do not find any that require notice; as all have been decided as mere matter of sale (by *Ujeernamah*, generally specifying a term of ninety or seventy years) and no question of law taken. The right of selling the child from the parent, the wife from her husband, at the caprice and will of the master appears recognized, and the only proof required is the sale having been made and the person making it being the owner of the slave. Surely in these enlightened times, it may be hoped and expected that some line will be drawn, and that children born of slaves will not be allowed to be held (from birth) the slaves of the master. Those who have (after coming to years of discretion) sold themselves are not to be pitied; but there ought to be some restriction as regards the first. Let those, who are slaves (considering the past times) remain slaves, possessing

\* See Letter from the Law Commission, No. 1.

however a right to justice, (I mean on trial,) equally with all other persons;—but the offsprings be declared from a given time (after proclamation) born-free. This will annihilate the system of prevailing slavery, and be the eventual loss of the master for the general good of all.

There appears, to have been no notice taken, with regard to the party being either Mosulman or Hindoo, in any of the cases decided by the Court.

*Extract from the Proceedings of the Nizamut Adawlut, under date the 25th of May, 1830, referred to in the above.*

PRESENT:

W. LEYCESTER and }  
C. T. SEALY,        } Esquires,  
                            Judges.

Read a Return from the Commissioner of Circuit for the 12th Division, and the Proceedings in the case of Jhaul and others claimed by Runjeet as his slaves, called for by the Court's Precept of the 2d January last, on a petition from Jhaul and others.

The Court observe that Jhaul and others, five men and five women, were ordered to be released on the 10th January, 1828, by the Magistrate, and that Mr. Lee Warner, on an appeal to him by Runjeet, adjudged the individuals in question to be his slaves. As the order of the Commissioner is deemed to be improper and unauthorized by any Regulation, the Court annul the same, and direct that the Commissioner instruct the Magistrate to call before him Runjeet and the individuals, who may have been made over to him as slaves by the Commissioner's orders and set at liberty the latter,—taking from Runjeet, a Mochulka in a reasonable amount to abstain from illegally harassing the said persons or any others affected by the order annulled, leaving the said Runjeet to seek his remedy in a Court of civil jurisdiction.

The Court regret, that Mr. Lee Warner should have considered himself at liberty to interfere in a case, which,—even from the position of the petitioners that in India slaves are assets the same as lands, and that large sums are expended “in the acquisition of that species of property:”—was clearly not within his jurisdiction; and that he should have issued an order disposing of disputed property in human beings, which he must be aware that he was not competent to do with regard to any article of property, animate or inanimate.

*To the Officiating Register to the Court of Nizamut Adawlut,  
Fort William.*

I have the honor to acknowledge the receipt of the Extract from the Proceedings of the Nizamut Adawlut, under date the 25th May 1830, in the case of Jhaul and others claimed by Runjeet as his slaves, called for by the Court's Precept of the 2d January last, on a petition from Jhaul and others.

2. I beg leave to state for the information of the Nizamut Adawlut, that the orders of the Court have been immediately carried into execution by transmitting the same to the Joint Magistrate of Monghyr, with directions to report the due completion of the orders contained in the Extract above adverted to.

3. In the concluding paragraph, the Judges of the Court have thus recorded their opinion—"The Court regret, that Mr. Lee Warner should have considered "himself at liberty to interfere in a case, which,—even from the position of the petitioners that in India slaves are assets the same as lands, and that large sums are "expended in the acquisition of that species of property,—was clearly not within his "jurisdiction, and that he should have issued an order disposing of disputed "property in human beings, which he must be aware that he was not competent to do "with regard to any article of property, animate or inanimate."

4. Under the circumstances of this censure having been entered on the Records of the Nizamut Adawlut, I trust the Court will see the propriety of my reply being also filed with those proceedings, in explanation of the grounds on which I acted. And first I beg to state that I know of no distinct rule by which the interference of the Criminal Court is restricted in such matters; on the contrary I have been misled by an authority which I had hitherto considered universally acknowledged by all the Courts of India. I allude to Mr. Harington's Analysis of the Laws and Regulations, published in 1821; and if your Court will do me the favor to look at page 70, it will be found that Mr. Harington thus expresses his opinion—"On considering the Regulation proposed by Mr. Richardson with respect to slavery, "I entirely concur in his first proposition that all claims and disputes respecting "slavery should be made cognizable by the Magistrates in the first instance, subject "to the established control of the Courts of Circuit." This quotation, I am aware, is only the opinion of that gentleman; and on it I do not exclusively rest my excuse, but on the following point recorded.

5. Mr. Harington observes—"the following extract of a letter from the Magistrate of Zillah Furruckabad under date the 17th February, 1817, (which induced "the Nizamut Adawlut to sanction a summary enquiry by the Magistrate subsidiary "to a regular suit in the Civil Court) may be cited as forcibly applicable to this "point."—Now the reasons assigned are all of a general nature, and will suit any case of slavery which may be brought before the Court; and the precedent having obtained in this instance, the question became, I supposed, no longer doubtful. Moreover I believe that if a report is called for, it will be found that the Criminal Courts are in the practice of determining summarily those cases. I may be wrong, but I request the Court will be pleased to ascertain the fact, and if such a mode of proceedings shall be found to be in use, I hope the Court,—in consideration of the peculiarity of the individual case, and of a want of precedent, or rather I may say being led away by a wrong construction of the Analysis quoted,—will be pleased to annul the order of censure from their books. No one can rejoice more than myself in having a precedent which will, in future, enable me to act up, to the dictates of my own conviction of what is right, and to that feeling which is common to all Englishmen,—a detestation to slavery. I had viewed the case as an act of dispossession by the Court, and in opposition to the decree of the Civil Court, and to that course of life they had been pursuing (by living as slaves in Runjeet's house) until the time of the theft; and I feared that an impression might go forth that a slave to emancipate himself and relations had only to steal his master's property and be sentenced to a limited imprisonment in jail for the offence, when on his being

released from jail, he became at the same time by official interference without any enquiry into the facts, released from servitude.

6. The Joint Magistrate punished the individuals in question,—not because the crime of theft was proved,—but from having fled (mufroor) from the house; and without any assigned reason orders (in the conclusion of his Rubakaree) that after being released from jail they may go where they please. The decree of the Court states that the male and female slaves are the right of Duleep\* Sing and also uses the term (Ukrobai Anha) their kindred. Now it is without doubt that they are (the persons mentioned in my order) the descendants of one of the persons who is still slave named in the decree. I state the circumstances only to show that I acted on what I thought sufficient cause: though as I have already said, I rejoice at the decision of the Superior Court.

The father of Runjeet.

7. I also beg leave to state that I do not exactly understand the meaning of the concluding part of the last paragraph: for if taken in its literal sense, how is it to be decided whether the property which may be brought before the Court in a case of theft belongs to the thief (as he says probably) or to the prosecutor? And it frequently occurs that an enquiry is necessary to determine whose the property may be in the first instance; and as a case in point I beg to notice the Nizamut Adawlut's orders in the case of Munneenath Baboo, page 264, Report of Cases 1829, decided by the Nizamut Adawlut, of which this is an extract.

"Mr. R. H. Rattray.—The property I would leave to the discretion of the Magistrate; any deeming themselves aggrieved by his disposal of it having an appeal to the Commissioner who held, the trial and finally to this Court by petition.

"Mr. Leycester agreeing with regard to the property,—orders were issued accordingly."

COMMISSIONER'S OFFICE,  
12TH DIVISION, MONGHYR, }  
The 12th July, 1830.

(Signed) E. LEE WARNER,  
Commissioner of Circuit.

No. 70.

*Answer of Mr. J. Dunbar, Magistrate, Bhaugulpore, dated 26th January, 1836, to the Register to the Court of Nizamut Adawlut, Fort William.*

2. As far as my own practice has gone, I have never recognized the relation of master and slave, as in any degree justifying acts which would be otherwise punishable or constituting a ground for mitigation of punishment. When a complaint is laid before me, of ill-treatment, I have never considered it necessary to enquire whether the complaining party were actually a slave, over whom the accused had a legal right or not. The law has always taken its course, as it would in any other case; and if the offender claimed his accuser as his own property, I have never, as Magistrate, recognized such a claim, but directed him, if he felt so inclined, to carry his claim into the Civil Court.

3. Slavery to a great extent exists in this district. I am not aware that the slaves are subjected to any particularly bad treatment, but I confess, as I think the system is alike repugnant to the laws of God and man, I should rejoice to see it put down, by a legal enactment.

*Answer of Mr. A. Lang, Officiating Joint Magistrate of Monghyr, No. 71.  
dated 25th January, 1836, to the Register of the Nizamut  
Adawlut, Fort William.*

2. The system of slavery, as at present prevalent in this country, having never been brought to my notice in any cases which I have had before me, I feel that it would be presumption were I to offer an opinion on the points mentioned in Mr. Millett's letter. I trust that I may, therefore, be excused doing so.

*Answer of Mr. F. Gouldsbury, Officiating Additional Judge, Zillah No. 72.  
Behar, dated 11th January, 1836, to the Register to the Sudder  
Dewanny and Nizamut Adawlut, Fort William.*

2. With regard to the legal rights of masters, over the persons and property of their slaves, which are practically recognized by our Courts, I beg to state that as far as my experience goes, it appears to be the general practice of our Courts in all civil suits brought before them involving the right of a master over his slave, to be guided in their decisions by the Mahomedan or Hindoo laws, according as the parties may belong to one or other of those religious persuasions. In criminal matters, I am not aware that it is usual to make any distinction between free persons and slaves, or to afford less protection to the latter description of persons, than to any other class of British subjects.

3. By the rules of our Criminal Code, I conceive that a slave is entitled, equally with a free person, to protection from oppression and ill treatment, and that a Magistrate would not be justified in exempting a master from the full punishment which he would deserve for cruelty or hard usage towards his slave, merely because the Mahomedan and Hindoo Codes would sanction such mal-treatment. Such cases are however, I believe, of rare occurrence, and the interposition of the authority of the law is consequently seldom required. In this country, the condition of a slave is generally superior to that of a free person, as the master has an obvious interest in treating him with kindness.

4. The only slaves, recognized by the Mahomedan law, are infidels made captive in war and their descendants. Consequently there are but few at present existing who can be legally denominated slaves; and the condition of those who are nominally in a state of bondage is not such as to render their emancipation either necessary or desirable. They are generally persons, who were sold by their parents in their infancy in time of scarcity, and who have consequently only exchanged a state of starvation,



for one, which secures them protection, and places them beyond the reach of want; as both duty and interest combine in rendering it incumbent on a master to cherish and protect his slave.

5. The Hindoo Code recognizes no less than fifteen descriptions of slaves,—according as they are acquired by birth, purchase, donation, inheritance, conquest, etc. whose persons and goods are the absolute property of the master, whose power over his slaves would appear to be unlimited. The actual condition of Hindoo slaves however differs little from that of Mahomedans. They are almost invariably well treated by their masters and their condition superior to that of free servants.

6. With reference to the 5th paragraph of Mr. Millett's letter, I beg to say that in my opinion a Mahomedan master's claim over a Hindoo slave could only be determined by the Mahomedan law and vice versa; and that except in behalf of a Mussulman or Hindoo claimant, the Courts are not competent to admit and enforce any claim to property, possession, or service of a slave.

No. 73. *Answer of Mr. H. V. Hathorn, Magistrate of Zillah Behar, dated 25th June, 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.*

\* Answer to 1st paragraph.

In the district of Behar, the Courts would appear, by their decisions, to have recognized generally the rights of masters over their slaves, to the extent of enforcing any engagements voluntarily entered into by the parties, according to the custom of these parts, and provided that they be not repugnant to the feelings of a British Judge.

\* Answer to 2d paragraph.

In cases of complaints preferred by masters, against their slaves for absconding or contemptuous refusal to work—previous to causing, the apprehension of the slave or requiring, him to perform the service, Magistrates have usually demanded proof of the slaves amenability, either documentary or by the slave's admission; in like manner, in instances of complaints, instituted by slaves against their masters, for expulsion or the ill treatment of themselves or their children. In the former case, the Magistrate would not interfere, except when the master had engaged to support the ejected individual. In the latter case, on proof of ill usage, the officer, in awarding punishment, would regard the parties in the relative position of parent and child;—admitting the right of the former, to correct by moderate chastisement, the misconduct or disobedience of the latter,—but protecting the slave against acts of cruelty inflicted by the master.

In cases when the slave might apply for emancipation, in consequence of maltreatment or otherwise,—it would be the duty of the functionary, I conceive, without reference to Hindoo or Mahomedan law, to record the right of freedom to the applicant, upon the general principle, that in the absence of any specific rule or regulation, the Courts are guided by justice, equity and good conscience; which discretionary power would immediately dictate the propriety of granting emancipation to the slave.

I am not aware of any cases, in which less protection would be afforded to an injured slave than to a free subject.

In practice, I believe, the Courts of Criminal judicature, would not draw any distinction, in deciding upon cases of complaint brought by slaves against their masters, whether the parties were of the Hindoo or Mussulman persuasion, and would dispose of such cases, the same as if a servant had complained against his masters.

I have before stated, that I believe it to be the practice of the Courts at Behar, generally to recognize the relationship of master and slave, to the extent only of enforcing such written contracts or voluntary engagements, as may exist between the parties. Further it has not been usual to draw any distinction in regard to the sect or religion of the parties concerned.

I am led to suppose, that the construction of Section 15, Regulation IV. of 1793, by the Sudder Dewanny Adawlut, in the year 1798, is not generally understood to have reference to criminal cases. I do not recollect any instances, in which the spirit of the Section above quoted was considered to be the rule of guidance in disputes between masters and slaves. On the contrary such cases would seem to have been judged according to equity and justice,—treating it as a case for which no specific rule existed.

Having briefly disposed of the queries suggested in Mr. Secretary Millett's letter, I proceed to offer a few general remarks as to the state of slavery in the district of Behar.

Slavery both among the Hindoos and Mussulmans, prevail to a considerable extent in this district; it appears to be resorted to by the higher classes as a cheap mode of increasing the number of their followers and attendants, and thereby adding to their dignity and state, and the poor people find it a ready means of obtaining a certain livelihood, and securing to themselves and families a comfortable asylum in seasons of calamity and distress.

Among the Hindoos, the caste denominated "Kuhars" are nearly all slaves. The "Koormies" are also mostly slaves. There are many also among the Dhanook and Jessuar caste. Among the Mussulmans, slavery is almost entirely confined to the Julahah caste. But the slaves of this persuasion are called indiscriminately Molazadas, which properly applies only to the descendants of slaves.

Slaves purchased are either employed as labourers or as menial servants; in the former case, the farmer or landed proprietor tills his land and gathers his harvest at less expence; and as menials, the master ensures in his slaves greater fidelity. In years of distress arising from calamities of season, the traffic in slaves by their parents, is very considerable in Behar. As long as the slave continues faithful to his master, he is fed, clothed, and well-treated, and all religious ceremonies performed at the marriage or death of the slave are defrayed by the owner. The offspring of a slave becomes the property of the master, who is obliged to afford protection.

Slaves in Behar appear to be purchased either conditionally or unconditionally. They are also taken on long and short leases,—in the latter case, from two to ten years,—in the former for about eighty years. Mortgages are also common and foreclosures applied for and obtained from the Courts. These contracts, are usually attested by the Cazies, and not unfrequently registered in the Courts.

The price of slaves varies according to their age and the nature of the service for which they are purchased. The following table exhibits the average prices for which they are sold at certain ages.

From one	to seven	years about ten	rupees.
" eight	to fourteen	" " thirty	"
" fifteen	to thirty	" " fifty	"
" thirty-one	to fifty	" " thirty	"
" fifty-one	to sixty	" " twelve	"

They are usually sold, both male and female, for ordinary purposes or general work. But a slave girl if young and handsome, and sold as a concubine, will fetch one hundred or two hundred rupees.

In order to acquaint the Law Commissioners, of the nature of the cases regarding slavery, adjudicated in the Mofussil Courts, I have annexed an abstract of suits instituted in the Civil and Criminal Courts of Behar within the last ten years,—showing the entire number of complaints preferred and how they have been disposed of. It is a curious coincidence, that the number instituted in the two Courts should have been nearly the same.

*Abstract of Suits connected with Slavery instituted in the Civil Courts at Bahar, from 1825 to 1835, inclusive.*

Substance of Suit.	Total No. of Cases.	HOW DECIDED.					Substance of decision in particular cases.
		Decreed in favour of the Plaintiff.	Dismissed.	Parties Discharged without any specific order.	Amicably adjusted.	Struck off the file.	
1. For right to possession of slaves, .....	53	31	22	0	0	0	
2. For possession of slaves by deed of partition or Takseemnameh,...	6	3	3	0	0	0	
3. For possession of slaves by deed of mortgage or "Byebilwuffa," ...	1	0	1	0	0	0	
4. For possession from one, who had fraudulently sold slaves not his property, .....	2	0	2	0	0	0	<p>In this case, it was ordered, that the party could not obtain possession, until he had petitioned to foreclose the mortgage.</p> <p>Ordered, that the case be dismissed; as the plea advanced by Plaintiff is not recognized by any Regulation.</p> <p>Ordered, that the slave must not consider himself emancipated, until he has repaid the money advanced to him.</p>
5. For possession on plea of having purchased to save from starvation, .....	1	0	1	0	0	0	
6. For services from a slave, who had received consideration for the same, .....	1	0	1	0	0	0	
7. For possession of a slave on mere assertion, .....	1	0	0	1	0	0	
8. For possession by deed of gift without a consideration, .....	1	1	0	0	0	0	
9. For possession on 18 years lease, .....	1	0	1	0	0	0	
10. For possession as per sale by the mother,...	1	1	0	0	0	0	<p>* Ordered, that the case be dismissed, as the Regulations do not recognize purchases made for such like illegal purposes.</p> <p>† Ordered, that the case be dismissed being contrary to the Shasters.</p>
11.* For possession of a slave girl purchased for prostitution, .....	2	0	2	0	0	0	
12.† For possession by gift for a consideration, }	1	0	1	0	0	0	
Total...	71	36	34	1	0	0	

*Abstract of Cases relating to Slavery preferred before the Criminal Courts at Behar from 1825 to 1835 inclusive.*

Substance of Complaint.	Number of Cases.	HOW DECIDED.						
		Ordered to be delivered over to their master.	Referred to the Civil Court.	Parties discharged without any specific order.	Amicably adjusted.	Punished.	Acquitted.	Struck off file.
MASTER versus SLAVE.								
1. For running away and carrying off property, .....	4	2	2	0	0	0	0	0
2. For absconding to run away,	4	0	0	3	1	0	0	0
MASTER versus MASTER.								
3. For possession of slaves with assault, .....	62	7	27	4	4	4	12	4
4. For enticing away slaves, ...	2	1	0	0	0	1	0	0
	72	10	29	7	5	5	12	4

No. 74. *Answer of Mr. C. Tucker, Commissioner of Patna, dated 12th September, 1836, to the Register of the Sudder Dewanny and Nizamut Adaulat, Fort William.*

2. I regret that, it is not in my power, to furnish any information on the various topics connected with the subject of slavery adverted to in the Court's orders. I have never sat in a Civil Court since first entering on the public service, and have had no opportunity of forming an opinion as to the system of slavery, which obtains in this country. Magistrates were prohibited taking cognizance of cases, involving the question of right to a slave; and I do not ever remember an instance of an application being made by a slave for redress against his master for maltreatment. On general principles of equity, however, I should, as a Magistrate, entertain such cases, and proceed to their trial the same as if the applicant were a free-man.

3. Under these circumstances, I must at once plead my inability to supply any information, that could be of the least use to the Court on this subject; and in excuse for the delay which has occurred in making this declaration beg to state, that the Court's Circular, of the 12th November, 1835, reached me whilst on the move from Sarun to Gya, and in the confusion of moving was mislaid and only produced this day.

*Answer of Mr. George James Morris, Judge of Patna, dated 24th September, 1836, to the Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.*

2. Since the period I have held charge of my present office at Patna, no cases connected with slavery,—whether immediately for the right of property in slaves by sale, bequest, or succession, or indirectly in the course of enforcing decrees of Court,—have come before me, although allusion, to such a *status* as actually existing are of frequent occurrence. No criminal prosecutions, arising out of maltreatment of slaves, or of disputes for the right of possessing them, have ever found their way into the Sessions Court; and I have reason to believe that the records of the Magistrate's Kutcherry will be found to be equally free from them. The system of buying and selling slaves, if it prevails at all in this district, is not as it were, openly, legalised—as far as an avowed custom and unforbidden practice can legalise it. The Cazees too, I am informed, do not consider themselves at liberty to authenticate instruments for the conveyance of property in slaves. In the district of Shahabad, where I was last stationed, cases of slavery were also very rare. In Behar, on the contrary, where I held office for nearly five years, claims and actions for slaves were as common as those for any other description of property: and very many disputes came to be settled before the Magistrate; by whom in questions of disputed right, the matter was summarily disposed of, by setting the alleged slave at large, on security;—while the party claiming to be the master was bound over to bring a civil suit, within a given time to prove the right. As many such claims had been tried and adjudged by me, I wished, therefore, before proceeding to answer the particular questions proposed by the Law Commission, to refer to my notes of such trials. This advantage I have missed,—the note books having been made over to my successor (Mr. Dent),—who is at present absent from India. As far however as memory will serve me, I will state the practical results to which, in the course of my experience, in adjudicating such cases, I was brought.

3. I will first of all observe generally, that nothing could have been more loose or uncertain, than the practice in regard to rights claimed, or exercised over slaves. I have never been able to trace the rules, that were recognized and acted upon, to any principles of law, whether Mahomedan or Hindoo. Local prescriptive usage,—modified and limited by occasional edicts issued by the Civil Authorities to guard against particular abuses,—seems to have been the only law, to which either party, whether master or slave, looked up. In the usages; which had thus become common and binding, certain principles of natural equity, were more or less discernible. For instance; the right of disposing by sale of infant offspring, male or female, rested exclusively with the mother, or failing her with the maternal grandmother. The father or other relations on his side had no such right of disposal: nor is his consent even deemed indispensable to the validity of the sale. This custom applies mainly to two large casts, viz. the Kahars and a tribe of Koormees; who as a body are all counted as slaves, immemorially;—though it may happen, that some few, here and there, being accidentally free, do sell their own children. In all other cases, the children are the property of the parents' master. By degrees, the practice referred to, seems to have become pretty general throughout Behar;—i. e. whether the parents are reputed free or otherwise,

no sale of children appears to be recognized as valid, to which the mother, or her mother, has not in some way been made a party: and even in cases of sale of slaves, the undoubted property of the person selling them, it is customary, in order to give greater validity to the sale, to procure the assent of the mother, or her attestation to the instrument of sale. It seems to be generally admitted,—that, to make the sale of a person born of free parents valid, such sale should have been made under circumstances of distress, such as dearth, and the like,—and that the party sold be an infant, or of immature age. Another point, to be remarked in connection with slavery usages, is this; that, the deeds and titles, under which owners in Behar profess to hold their slaves, are not, generally at least, bills of sale (*qibaleh bye*); but simply leases (*ijarehnamah*) or assignment of person and services for a fixed term (90 years), or in other words for the natural life. Now upon this, two questions naturally arise, 1st, Is such lease or mortgage redeemable, by repayment of the money advanced, on the person sold reaching maturity, and wishing to release himself from bondage? 2d, Can such instrument give any thing more than a life interest in the thing sold,—or can it convey any right over the offspring of the person sold or leased out? Cases, which turned upon the first of these questions, have come before me judicially; and where there was no express condition in bar of it, and the mortgage had not been foreclosed, I have allowed the person, who was sold to be a slave in childhood, to redeem his or her freedom, on payment of the principal sum advanced with interest. I do not call to mind having adjudged any claim, in which the second case, I have put, was involved in the point at issue.

4. What has been stated above, partly meets some of the questions proposed by the Law Commissioners in regard to the practice of the Civil and Criminal Courts. I will now proceed briefly to answer those questions in the order in which they are put.

Question 1st, Answer 1st.

When the sale or other conveyance is valid and complete, the legal right so acquired, extends to the persons and property, of the slaves themselves, and of their offspring,—supposing both parents to belong to one and the same master. But if they belong to different owners, then the children are the exclusive property of the proprietor of the mother. The proprietary right of the master in regard to the use, loan and sale of his slave is the same as over any other kind of personal property. If the slave be hired out, his earnings while in service belong to his master; if he runs away he can be brought back, and restored to his master; and the party sheltering or enticing such run away slave, can be sued for damages for loss of service.

2d Answer, 2d Question.

According to the Mahomedan notions, founded on the precepts of their law, the purchase of a slave for unlawful purposes, such as prostitution, thieving, etc., makes such sale null and void. If, therefore, unlawful or improper service be exacted from a slave by his master, he can, under that law, claim his release. So far then from the relation of master and slave justifying acts in themselves, illegal and punishable, such acts go of themselves to dispute the relation. How far this principle may in practice be acted upon,—I will not take upon myself to say. I have in a civil action given a slave his freedom, or in either words dismissed the claim of the master, when acts of cruelty and hard usage were established against the latter—believing that I was not acting contrary to the Mahomedan law, and strictly in accordance with the principles of justice and equity, which by the regulations, in cases not specifically provided for, were to form my rule of conduct. The principle upon which slavery of persons not infidels, or taken in battle, is justified by Mahomedan law and practice, is simply to preserve life. If therefore, the master

will not feed or provide for his slave, or otherwise by carelessness or neglect, endanger his life, the avoidance of the obligation on the side of the master will form a legal ground for emancipating the slave. Cases of this description I have never met with. In ordinary practice slaves complaining against their masters will receive from Magistrates the same protection, as would be shewn towards parties not standing in that relation; and the degree of punishment would be determined, according to the mitigating or aggravating circumstances to be found in the case itself, without reference to such relative position. Slight chastisement, inflicted by a master on his slave, in like manner as on a child, or servant, would certainly be looked upon as a venial offence. But in point of fact, such cases never find their way into Court, it is only habitually hard and cruel usage, that forces a slave to run away, and even then he is rarely the first to complain. The indulgences to Mussulman slaves, referred to at the end of this query, are in practice never recognized or acted upon.

In the case supposed, no distinction is ever made by Civil and Criminal Courts, between slaves and free persons. The *status* of the former has never, to the best of my knowledge, operated to exclude them from claiming protection of their natural rights, whenever those rights, whether as regards person or property, were infringed by any wrong doers not being their masters. If any thing, the complaints of persons so aggrieved would at first sight be more favorably viewed from the natural leaning towards the weaker party.

Question 3d, Answer 3d.

5. In summing up then what has gone before, and referring moreover to the doubtful points put in the 2nd and 4th paragraphs of Mr. Millett's letter,—it will appear that, Civil and Criminal Courts have hitherto afforded remedy to slaves, for injuries, whether affecting person or property, not according to the strict letter of Hindoo or Mahomedan law, but according to the laws of custom and equity,—for this simple reason, that parties so complaining whether master or slave, have never pleaded to have the provisions of either law enforced.

6. In the case supposed in the concluding para. of that letter, the decision would, I presume, be governed by the law to which the defendant was subject. In the other cases, the right of ownership would depend upon the validity of the title acquired by the purchaser; upon whom the onus of proof would fall, to shew that, the slave was the child of a Hindoo or Mahomedan parents,—or was otherwise legally the property of the party from whom he was purchased.

*Answer of Mr. W. R. Jennings, Magistrate, City of Patna, dated 13th August, 1836, to the Register of the Sulder Dewanny and Nizamul Adawlut, Fort William.*

No. 76.

I have the honor to submit a statement, shewing the several cases of slavery, which have been brought before this Court from November 1828 to June 1835; which are all that are traceable among the records of this office.

2. You will observe, there is but instance of a slave, having been punished for deserting from her master's house, with property, and again made over to him.



*Statement of Cases of Slavery before the Magistrate of Patna, from November 1828  
to June 1835.*

Names of the Parties.	Charge.	By whom tried and order passed.	Date of Order.	Substance of Order.
Moossamut Mobarukh Kuddum, slave, <i>versus</i> Moossamut Khanumjee, mistress.	Cruelty by burning body.	Mr. R. Neave, Acting Magistrate.	26th Nov. 1828.	The slave ordered to go where she pleased; and the mistress not to make any resistance, and if she has any claim she is at liberty to sue in the Dewanny Adawlut.
Moossamut Mobarukh Kuddum and Moossamut Nunnhee, slaves of Mirza Nujjuf Ullee Khan.	Eloping from the house of their master.	Mr. H. Scott, Assistant Magistrate.	17th June 1830.	The slaves ordered to go where they pleased.
Moossamut Pooneah, slave, <i>versus</i> Wife of Lolsah Tewaree and Debeechnurn, her son in law.	Fettering the slave.	Mr. T. C. Scott, Officiating Magistrate.	14th July 1830.	The defendants released; and the slave ordered to remain where she pleased.
Bolukram Pondry, master, <i>versus</i> Moossamut Murrucheah and Moossamut Loughchee, slaves.	Eloping from the house of their master with property.	Mr. T. C. Scott, Officiating Magistrate.	5th August 1835.	The slaves were imprisoned 14 days without labor, and then they were made over to their master.
Moossamut Etro and Moossamut Mooskee, slaves, <i>versus</i> Moossamut Jonnee Begum and Moossamut Doolhinjon, mistresses.	Beating and cruelty by burning body.	Mr. J. C. Dick, Officiating Magistrate.	18th July 1835.	The slaves were ordered to remain where they pleased, and Mochulka taken from Moossamut Jennee Begum not to oppress the slaves.
Moossamut Wolaueety Khanum, mistress, <i>versus</i> Moossamut Hosenneah, slave.	Accusation of theft of Jewels and elopement.	Principal Sudder Aumeen Ujodheapershaud Tewaree.	5th June 1835.	The Plaintiff having failed to attend the Court, the case was struck off the number; and the slave ordered to remain where she pleased.

*Answer of Mr. J. Hawkins, Officiating Judge, Zillah Shahabad, No. 77.  
dated 4th of July, 1836, to the Register to the Courts of Nizamat  
Adawlut, Fort William.*

I never had a case of slavery before me, during the whole of the time, I have been in the service; nor did any system of slavery prevail in any district, in which I have been employed,—with the exception of that in which I at present hold office.

2. Such being the case, I can only state to the Court, how I should consider it necessary to act, on being called upon to decide cases of the nature alluded to. Bound as are our Courts, to administer to the natives their own laws,—I should consider myself compelled to recognize the rights of masters over slaves and their property, agreeably to the Hindoo and Mahomedan Laws as the case may be,—provided that no right was claimed inconsistent with the proper, that is, kind treatment of the slave. And I should, therefore say with reference to the 2nd and 3rd paragraphs of the letter of the Secretary to the Legislative Council, that I would mete out the same justice to slaves that I would to other persons, and consider the master responsible and punishable for acts of cruelty to the same extent, as if those acts were committed against persons, in whom he possessed no right of property.

3. In reply, to the concluding paragraph of the Secretary's letter, I do not hesitate to say, that I would not support the claim of a Mussulman master over a Hindoo slave, when according to the Hindoo-law, the slavery is legal, but according to the Mahomedan law illegal, and vice versâ,—unless expressly directed to the contrary. I would restrict the system of slavery to the narrowest legal limits, and I would not support a claim to property, which the law, the claimant would desire to have administered to him in the decision of all other questions of a civil nature, pronounces to be illegal. Upon the same principle, I would not recognize the claim of any, other than a Hindoo or Mussulman, to a right of property in slaves.

*Answer of Mr. T. Sandys, Magistrate of Zillah Shahabad, dated 9th No. 78.  
July, 1836, to the Register of the Courts of Sudder Dewanny and  
Nizamut Adawlut, Fort William.*

2. There can only be one grand principle of practice, avowedly recognized in all our Courts of Justice, "that they are accessible to slaves as well as freemen, "and a British Magistrate would never permit the plea of proprietary right to be "urged in defence of oppression." But it is questionable, how far the slave, from his peculiar position, (doubly enslaved by his affect and wilful submission in the first instance: and in succeeding generations, rendered familiar by the distinction of caste and domestic education), will allow himself to make the Court accessible to himself.

3. Importation of slaves by sea can exercise no  
either with regard to its geographical position, or the state of

in these provinces. That, by land also cannot be termed importation: it confines itself as within its own boundaries, simply to transactions of purchase, mortgage or exchange with the neighbouring districts. Slavery, therefore, as it exists here is purely domestic,—bad, even as this most favorable view of slavery may be. The castes who generally engage or sell themselves as slaves, are—

*Mussulmans.*

1. Jolaha.
2. Dhoonnia.
3. Dome, either Mussulman or Hindoo.

*Hindoos.*

1. Kuhar.
  2. Koormee.
  3. Dhanook.
  4. Bharee.
  5. Buruhee.
- Seldom except under emergency.

The subject may be simply viewed, as a mortgage of personal services for life, or 70 years; instead of daily labour, at daily hire,—the castes engaging being of the lowest laboring classes,—their liberty in outward respects being without restraint,—their employment, household and domestic. The cheapness of the system, compared to hired service, independent of other considerations, strongly prejudices the native master in its favor. On the other hand, the slave is saleable as other kinds of property, being constantly liable to mortgage or sale, and is frequently made the subject of litigation in the Civil Courts; which decree accordingly. The slave does not appear to possess the power of repurchasing his liberty, and his release, at any time or under any circumstances, seems to remain optional with the master. Once a slave, whatever he has, or may gain, is his master's. Hence the speculation and value attached to the system. The children remain with the mother; nor does the father or the master exercise any right of property over them. This is the description of slavery as I understand ruled by the Court's Circular Order, No. 141, wherein the Court observe "that any part of Regulation X. 1811, is not applicable to sale of slaves not imported into the British Territories."

4. Under the foregoing circumstances, cases between the master and slave and slave and master do not frequently come before the Criminal Court,—the greater number of minor offences, consisting of complaints of run aways, "thieving," or on mortgage or sale taking place, the slave endeavouring to avoid the exchange and obtain his release by questioning the right of bondage. But, particularly to notice serious cases as affecting the personal protection of the slave,—a reference to the records of this office from 1816 to 1836, assures me, that no cases of simple mal-treatment, slave *versus* master, master *versus* slave, or a single instance of heinous charge on either side has\* occurred.

trial.

5. With regard to the reference to Section 9, Regulation VII. 1832,—I understand, that a Hindoo or Mussulman slave is regulated by the usages and practices of his own caste, and not by the law of his master. This, I believe, is a mutual understanding. It is not improbable, that European and East Indian subjects may employ slaves of this description; and who, under this modified system of bondage or engagement, and with the tacit consent of the slave, exercise just as much right and property over him, as the Hindoo or Mussulman master;—though were the point contested in Court, in my humble opinion, I should be justified, on moral grounds and authorised by the spirit of British Government, in emancipating the poor ignorant bondman from such a slavery, out of the hands of this class of subjects.

*Answer of Mr. T. R. Davidson, Officiating Civil and Session Judge of Zilla Sarun, dated 17th September, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.* No. 79.

Since February 1833, I have officiated as Judge in five districts,—Ramghur, Etawah, Behar, Shahabad and Sarun,—and it must be evident to the Court of Sudder Dewanny Adawlut, that I have scarcely had time to make myself acquainted with the system of slavery prevailing in each, or any, of these Zillahs. Mr. G. T. Morris, the Judge of Patna, will have placed before the Court the result of his long experience in Behar; and from the character which he bears for ability and habits of reflection, his suggestions and observations on the system of slavery in that district cannot but prove most available. I the less regret, therefore, having destroyed my notes of cases, which came before me when I officiated for a short period as Judge of Ramghur and Behar. And to the best of my recollection, in no other district has a case of slavery ever come before me.

*Answer of Mr. Luke, Officiating Magistrate of Zillah Sarun, dated 15th of September, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.* No. 80.

2. The rights of masters and the slaves, do not appear to have been recognized in this district. And,—as more immediately connected with the Magistrate's Office,—the records of this Sherishta, do not furnish a single instance, where the plaintiff and defendant stood in the relation of master and slave; from which it may be inferred, that, if ever slaves have claimed the protection of this Court, their grievances have met with such redress, as the Regulations would have afforded to free-born subjects.

3. During my experience, it has never fallen to my lot to try a case, in which master and slave were the parties concerned. Were however such a case to come before me, I should be guided by the nature of the evidence of the witnesses, without reference to any relation existing between the parties as master and slave; and should award such punishment as the provisions of the Regulations might authorize.

*Answer of Mr. T. J. Dashwood, Judge, Zillah Tirkoot, dated 5th of February, 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.* No. 81.

3. The higher ranks of Hindoos, invariably keep a number of them,\* and the Rajah of Durbhunga, the principal person in the district, has probably several hundreds of them in his family. \* Slaves.

4. Brahmins, Rajpoots, and even Kaiets have them according to their means; and most of the rich Mussulmen, also retain them. Slavery, however, in this country, is not to be compared with that in the West Indies or America: and the ideas and prejudices regarding it, which exist in Europe, ought to be laid aside in considering the question here. I have no knowledge of the system in the Western Provinces; but in this district, slavery is almost, if not entirely, confined to domestic slavery. The slaves are in constant attendance on their masters, and are employed in cleaning the house, bringing water for ablution and the use of the family, dressing the food and performing whatever services, may be required about the house; and in return they get their food, clothing, and lodging from their master, by whom also the expenses incurred at their marriages and funeral ceremonies are paid. They are rarely, or I may say never, engaged in tillage of the ground on their own account; but are sometimes employed in the cultivation of the private lands held by their master.

5. If they have the opportunity of saving money, or other property, on their own account, it is entirely at their own disposal; and their master has no controul over it, or the power of disposing of it contrary to their wishes. They are generally the most favored servants of the family, and trusted in preference to others in important matters; and are also employed as Gomastas, and managers of the estates and property, at a distance from the residence of their masters.

6. No implements of terror or punishment are required for them: and to all appearance and, I believe, in fact, they are better off and happier than the common ryots of the country and other natives of the lower castes and rank of life. It cannot however, be denied, that in the literal meaning of the word, they are slaves. Their masters have the power of buying and selling them, and they have not the power of emancipating themselves. From the good treatment they receive, few would probably wish for emancipation; but were they to desire it, they have not the power of obtaining it, except from their master's pleasure and gift. The purchase and sale of slaves is common; but it is however entirely confined to the limits of the district or rather to the immediate neighbourhood of their master's residence. He would never attempt to sell a slave out of Tirhoot; and were he to do it, the slave would not remain with the purchaser, but abscond in a short time, and return to some part of Tirhoot. It is not in my power to give a reason for this fact, but I have been given to understand, that such has invariably been the custom and the result of every attempt to evade it. The marriage expenses of the slaves, are, as I said above, at the cost of the master. It is generally contracted, with some other slave in the neighbourhood, and the parties continue to reside with and serve their respective masters.

7. With regard to the issue of the marriage, the rule is, that every male child born, shall belong to, and be the slave of, his father's master; but the female children born, are not necessarily slaves, and may on arriving at mature age, marry as they please: but they are generally disposed of by their parents, by some agreement at the time of marriage, which is never disputed, and they continue slaves. There is another custom prevalent in the district,—viz. men of the lower castes, (as Coormee, Dhanuk, &c., but freemen,) letting themselves out by deed for a term of years,—and selling any progeny that they may have, as slaves for life. Poverty and inability to provide for themselves, is the usual reason assigned in these kinds of deeds; and the term is generally seventy or eighty years, which is equivalent to their whole life,—as the parties have already arrived at years of maturity.

8. I enclose for the inspection of the Court, copies of some\* deeds of this kind,—some regularly drawn out by the Cazee; and I believe that it is this way that Mahomedans mostly obtain their slaves to make their purchases legal.

9. I now come to the specific questions in Mr. Millett's letter. I have above stated, that the master has no power over the property acquired by the slave: and as to his right over his person, he has by the native laws, the power of correction, as a master would have in England over his apprentice; but he would be liable to punishment equally there and here for any acts of cruelty. I have never had any complaints of the kind before me at the Sessions: but I would not, nor do I conceive that any Court would, admit the plea of being the master, as a justification, or cause of mitigation of punishment, for premeditated acts of cruelty. Against other wrong-doers than their masters, slaves would of course receive the same protection, as other persons from every Court in the country.

10. The clause in Regulation IV. 1793, directing the Courts to adhere to the Hindoo and Mussulman laws, refers to civil rights only; and under them the Courts would be bound, and do receive claims for the proprietary right over slaves. In the Criminal Courts, we look for our guide the Mussulman law only, which had prevailed for years under our predecessors in the government of the country. That being the case, the Hindoo would not be allowed to claim exemption under the Hindoo law for his criminal acts, as suggested in the fourth paragraph of Mr. Millett's letter, and he would be tried under the Mussulman law. We have tempered the severity of that law by some specific enactments. But every criminal act cannot be specifically defined and its penalty awarded: and the ruling authorities, had under the Mahomedan law, a general discretionary power, to which our Government succeeded.

11. Our ideas of justice and equity are different from theirs; and it was, I imagine, under that authority, that the Nizamut Adawlut were guided, in punishing the mistress and emancipating the slave Zuhurun. She might not be entitled to emancipation by the letter of the law: but with our ideas of justice, she was entitled to protection, as much as any free person, and the Court had no means of giving to her that security for the future, except by emancipating her from the power of her mistress. Cases similar to those mentioned in the fifth paragraph of the letter must be very rare, as a Hindoo, on account of his caste, could only keep a Mussulman slave for out-door work; but they may occur, and the custom of the country, would be a sufficient authority to the Court to receive such claims. A British-born subject could not however well be allowed to claim a slave,—as I imagine that he could be punished in the Supreme Court for having purchased him; and therefore a Court could not well decree a slave to him at one moment, and then in the next, send him down to be tried criminally for having him. But foreigners, residing in the Mofussil, who are not subject to the Supreme Court, but to our Courts, might under the laws of the country, claim a slave; at least I see no prohibition against it.

12. There are no other questions to reply to, but before I conclude, I must add a few other remarks on the subject. However much we may be anxious to remove every mark of slavery, and though it exists in the mildest form, it is the duty of Government to attempt it,—yet care must be taken, that we do not cause a greater evil, than that which now exists. There is here no forcible abduction of the slave from his native soil, nor any of the severities said to be elsewhere practised, used towards him.

\* Translated in the Law Commission.

13. We ought not, therefore, to be urged on by mere motives of philanthropy to rash and hasty measures; but should take into consideration the general condition of the inhabitants of the country. Whatever may have been the origin of slavery here, I am convinced that their number is now kept up solely from the poverty of the lower classes. Their poverty is at all times great, but in seasons of scarcity, or even a partial failure of crops, the difficulty of providing for their families is much enhanced; and it is then that they sell themselves, and their children to obtain immediate support. The total prohibition, therefore, of every kind of transfer would, I fear, at such seasons, occasion the sacrifice of many lives from starvation, if not lead to the commission of the murder of children, from want of means for their support. We must, therefore, wait patiently, for the further improvement of the country, and increase of the means of subsistence for its inhabitants, before we can entirely prohibit slavery. But we may attempt to regulate it, and abolish it by degrees, by preventing great additions being made to the number of slaves hereafter. This I think might be managed by regulating the practice above-mentioned of men letting themselves out, and introducing a system of hiring in lieu of sale.

14. In one of the accompanying deeds, a man being of age, lets himself out for eighty years, which is equivalent to his whole life, and sells his unborn heirs for ever. A man may have an abstract right to sell himself for life, and in order to provide for his children then living, some latitude may perhaps be allowed him; but he can have no right to dispose of his unborn heirs for ever. All clauses regarding the unborn, might, I think, be at once prohibited and declared illegal. With regard to the man himself and his living children, the case is different, but even with them, slavery for their whole life, is too great a price to pay for relief from a temporary distress and difficulty. In my opinion, therefore, all sales or leases for life, should be prohibited; but grown up persons permitted to let themselves out on lease for seven or ten years, with liberty of renewing it, at the close of every lease. Children are generally infants when sold,—so that they cannot be of any service to the purchaser for many years, after he has had them clothed and fed them. He is, therefore, entitled to some remuneration or to their services, after they have reached an age, capable of serving him in some way or other. I would, therefore, give power to the parent to dispose of, or let the child out in lease,—if under ten years of age, for a period of fifteen years,—and if above ten, for ten years; at the close of which period, they would be of age and able to earn their own livelihood in freedom, if so inclined; if not, they may let themselves out again as all grown up persons would be allowed to do. I fear that we cannot interfere with those now in slavery beyond extending the above clauses regarding children to be offspring of the present slaves, and giving them the period of ten or fifteen years according to their age, from the date when the Act took effect; and thus much we might do without much injustice to their owners.

15. A Register should be kept in each Police Division of all slaves within it, and a copy of the entries sent monthly to the Magistrate's office,—where a general Register should be kept, and every slave after the passing of the Act should be entitled to his freedom, unless his name and that of his master be duly registered and the period of his lease entered in it. By these means, we should give an opportunity of emancipating themselves, to those who wish for their freedom, and thus by degrees lessen the number of slaves and still not prevent the poorer natives from preserving the lives of their children, or their own, in time of distress.

Parents would probably, if their own circumstances were improved, take back their children, or persuade them to emancipate themselves: and at any rate, if neither of them wish for their freedom, they would become the hired servants, in lieu of being absolute slaves, and after a time, though perhaps a distant one, slavery would die of itself, and become extinct without injury or injustice having been done to any one.

\* *Three Forms enclosed in foregoing Letter.*

I. I, Jumuni, (a female Muslim,) am destitute of means of support and in debt. On that account, in consideration of seventy-five rupees received from A, (Hindu landholder) I have let out in hire, my son C, aged seven, and daughter D, aged eight years, during the term of eighty years ending 1320 Fussly. I engage and covenant that the said parties so let out in hire, receiving support, shall attend and render servile services to the said hirer. They shall not be recusant: and without his leave shall go no where, nor shall they run away during the term. Every child begotten or produced by the said hired persons, shall be the property of the hirer; so also, their remotest descendants who may hereafter be born. Neither I, nor my said children, shall oppose or object on any account. Therefore, have I written this deed of hire for eighty years. Dated 30th August, 1832, corresponding with 14th Chyt, 1239 Fussly.

II. I, A B, (a male Kurmi) aged 26,—I am in want of necessaries of life and involved in debt, and have received eight rupees from C, (Hindu) wakil of the Zillah Court of Tirhut, and let myself out to him to serve him for eighty-five years. I covenant and promise, night and day, to attend on the said hirer. All my lineal children who may be born hereafter will be the right of the hirer; and so also must their remotest descendants, to be born, attend and serve the hirer and his heirs. Hereafter neither I, nor my heirs who shall be born hereafter will make any claim, let or obstruction whatsoever. This then is written as a deed of lease, dated 30th March, 1832.

III. Cause of writing these lines is this. A B, (a Muslim weaver), of sound and disposing mind, appeared before me† at my office this day. He voluntarily confessed and acknowledged thus—"I could not, from poverty, support and feed my daughter " C, aged 9 years; she was in danger of dying. Therefore in consideration of five " rupees, of full weight, duly received, I have let her out in hire for seventy-four " years, ending Fussly 1302, to D, (a Muslim.) It is necessary that the said C " should attend night and day on the said hirer, obeying orders and rendering services of a slave. Without leave of the hirer she is not to go any where, nor " infringe his order. The hirer must support her. Her progeny and descendants, " born within the term of the lease, will belong by way of profit to the hirer and " his heirs. Hereafter they will attend on him as slaves. I shall have no claim on " him for the party hired or her offspring on account of non-payment of said sum " or any other account whatsoever. Therefore, these words have been written as a " deed of hire to be used when occasion may require.—Dated 14th of Maug 1228 " Fussly."

• See para. 8 of this Letter.

† Purgunna Cazi who attests.



No. 82. *Answer of Mr. G. Gough, Officiating Additional Judge, Zillah Tirhoot, dated 24th February, 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.*

2. My residence in this district, has been so very limited that I am unable to make any remarks on the system of slavery peculiar to this part of the country; but, considering the question generally, so far as the subject of slavery has come under my observation, I have always found, that slavery, as it exists within the Company's territories, is of a far milder form than that which is in force in other countries, or is generally imagined under the term slavery, by those who have not had local experience of the fact.

3. Slavery exists to a very great extent in India, and almost every Zemindar possesses slaves according to his means. These however are not the degraded individuals which that term is understood usually to denominate. I have invariably observed, that the slaves are the most favored and trusted servants of their masters, generally engaged in domestic duties, and frequently entrusted with the most confidential employments, in many instances, indeed, appearing more as members of their master's family, than as absolute slaves. The master possesses a proprietary right over the person of his slave, which is recognized in the Courts: but the sale and transfer of slaves from one master to another, is not of very frequent occurrence, and never takes place when the parties live in distant parts of the country.

4. The natives of India do not look upon slavery, with the same degree of repugnance, with which it is regarded in other countries: and individuals of the poorer classes are frequently found willing to sell themselves, either conditionally for a certain number of years, or otherwise. And in seasons of scarcity and distress, they readily avail themselves of such a mode of providing subsistence and comfort for themselves and offspring. No instance, has ever come under my knowledge, where a slave was reduced to that condition by any violent means. Modifications in regard to slavery may be beneficially introduced,—particularly in limiting the power of the parents in the sale of their children, and restricting the period of bondage in such cases to certain limits. But great caution and consideration ought to be exercised before deciding upon the total prohibition of slavery, if such a measure be in contemplation.

5. With reference to the points questioned in Mr. Millett's letter, to the address of the Register to the Sudder Dewanny and Nizamut Adawlut, of the Agra Presidency,—I would observe that, the master is considered as possessing a proprietary right over the person of his slave: but no sale or traffic is permitted, whereby the slave would be transported to any distant or foreign country. The master does not possess any proprietary right in whatever property the slave may have accumulated, who is at liberty to dispose of such property as he pleases.

6. The master is never considered as possessing power to inflict such punishment on his slave, as would be considered just ground of complaint, had it been inflicted by another: and slaves are always afforded protection, where cruelty and hard usage appear. No cases have ever come under my cognizance, where slaves were afforded less protection, than free persons, against other wrong-doers, than their masters.

7. I am not aware of any express law bearing on the point discussed in the 4th paragraph of Mr. Millett's letter, but I conceive that a Magistrate would be fully

warranted, by the general discretionary power vested in him, in taking cognizance of the maltreatment of a Hindoo slave by his Hindoo master.

8. With reference to the 5th paragraph of the letter above alluded to, I imagine that the Courts would be guided by the general custom of the country, in regard to slavery: and, therefore, support the claim of a Mosulman master to his Hindso slave, and *vice versâ*. But as those customs are not exactly applicable to British born subjects, I should not think that claims preferred by such individuals to proprietary rights in slaves would be recognized.

*Answer of Mr. J. E. Wilkinson, Magistrate of Tirhoot, dated 17th February, 1836, to the Register to the Nizamut Adawlut, Fort William.* No. 83.

On my return to the station from leave of absence, I found amongst letters unanswered one from your office regarding the system of slavery, and have the honor accordingly to observe that since I assumed charge of the Magistrate's office of this district, there have not been any cases connected with slaves brought before me; there are however slaves in almost every family, (Hindoos and Mahomedans) of any respectability in the district; that masters conceive they possess a right to punish refractory slaves with moderation; that a slave running away may be brought back; and that on complaints being made to the Magistrate the deserter may be made over to the master. That male slaves, born in the family of a Mussulman or Hindoo become the property of the master of the father, and are fed and clothed as other slaves; that female slaves may be married out of the family to any one the parents choose; that disputes, between two or more parties about a slave, may be adjusted by the institution of a regular suit in the Civil Court, the same as for landed property; and that slaves may be brought and sold, as every other description of property within the district, by a conditional deed of sale, termed amongst *Hindoos* "*Purm bhuttur*" and amongst *Mussulmans* "*ijaranamah*."

*Answer of Mr. H. B. Harington, Officiating Register, Allahabad Sudder Dewanny and Nizamut Adawlut, dated 18th March, 1836, to the Secretary of the Indian Law Commissioners, Fort William.* No. 84.

3. From the returns herewith forwarded, it will be observed, that throughout the Western Provinces, slavery, in the legal acceptation of the term, exists in a very limited extent; and that in several of the districts it is scarcely known at all,—while the whole of the authorities, Civil and Criminal, unite in bearing testimony to the mildness of its form where it still prevails, and to the generally happy and comfortable condition of the slaves in those places, their situation being little inferior to that of other menial servants. Indeed, in some parts of the country, the relationship

existing between them and their masters, is described as resembling that between parent and child. These circumstances, added to our well known abhorrence of the system generally; the repugnance of our Courts to enforce claims of every description to compulsory service; and the rules by which, when cases of that nature have come judicially before them, they would appear to have invariably been guided never to countenance the servitude of any individual, unless there was full and sufficient proof that according to the strict interpretation of the law, he was legally a slave,—sufficiently account for the very few instances in which recourse has been had to the Courts—by masters, on the one hand, to recover the possession or to compel the services of their slaves,—and by slaves on the other, complaining of ill treatment on the part of their masters, or suing to obtain their freedom. And hence it happens that, the majority of the local officers, who have been consulted on this occasion, are unable to support their opinions by any facts which have come within their own experience. The same remark applies equally to the Court of Sudder Dewanny Adawlut for these provinces. None of the cases made over to it, at the time of its establishment, in 1832, or on the abolition of the Courts of Appeal, involving claims of the nature of those alluded to in your letter; nor have any such been since instituted.

4. The substance of the replies, received from the local authorities on the several points under enquiry, (subject to some few exceptions, which do not appear of sufficient importance to require separate notice,) may be thus briefly summed up—

As regards the first point;—that the Criminal Courts practically acknowledge no legal right in the master, over either the person or property of his slave; but that considering themselves precluded, as in all other matters of a civil nature, from taking cognizance of cases involving claims of this description, their ordinary practice is, to refer the parties to the Civil Court for redress.

On the second point,—that the spirit of the rule for the observance of the Hindoo and Mahomedan Laws having been expressly declared applicable to cases of slavery, the Civil Courts consider that no option is left to them in the matter; but that they are bound to recognize in practice the claim of the master to the possession and services of his slave, and his legal right to dispose of him either by sale, gift, or otherwise. It is also generally acknowledged in practice, that a slave, whether Hindoo or Mahomedan, can possess no property in his own right; and that whatever may fall to him by inheritance, gift or otherwise; as well as every thing that he may acquire, by means of his own labor and exertions, becomes, and is necessarily the property of his master.

As respects the third points noticed in your letter,—that although the Mahomedan law permits the master to correct his slave with moderation, the Code by which the Magistrates and other criminal authorities are required to regulate their proceedings, does not recognize any such power; and as the Regulations of Government draw no distinction between the slave and freeman in Criminal matters, but place them both on a level,—it is the practice of the Courts, following the principles of equal justice, to treat them both alike, affording them equal protection and equal redress whenever they come before them, and whether they stand in the relation of master and slave to each other or not.

It has already been stated that in practice, the Criminal Courts do not acknowledge any legal right in the owner over the person and property of his slave, whom they view in the light of any other servant and treat accordingly: nor do they consider themselves competent to render a master any assistance in recovering a

Vide Macnaghten's Precedents of Mahomedan Law and Hamilton's Hidaya.

slave who may have absconded or accordingly all applications to that effect by whomsoever preferred.

A case in point, the Court observe, occurred at Furruckabad in the year 1816; in which,—the Magistrate having from a mistaken notion of his duty, compelled the return to her mistress of a girl purchased when an infant by a prostitute,—it was ruled by the Court, at Calcutta, that he had exceeded his competency, and he was cautioned against having recourse to that mode of proceeding in future. Copies of the correspondence which took place on the occasion are herewith forwarded for the information of the Law Commissioners.

The three preceding paragraphs fully answer the fourth point noticed in your letter.

With respect to the case of Nyjoom-oon-nissa which has attracted the notice of the Law Commissioners,—the Court observe that, the order directing her emancipation was passed by the Court of Nizamut Adawlut at Fort William; and as they have not the proceedings in the case to refer to, they are unable to state the grounds, which induced that Court to direct her deliverance from bondage.

With reference to the question proposed in the 4th paragraph of your letter,—the Court observe that, although the spirit of the rule for observing the Mahomedan and Hindoo laws has been declared applicable to slavery in civil matters,—in the administration of Criminal justice, the several Courts of judicature are required to be guided by the former only, except where a deviation from it has been expressly authorized by the regulations. Such however is not the case with respect to the subject under enquiry; and, as by the Mahomedan law, a master guilty, of oppression towards his slave, or of exceeding the limits of his power of chastisement, (that is to say, of correcting him with moderation,) is declared liable to exemplary punishment by "Tazeer" and "Akoobat," the measure of punishment being left, in each case, by the regulations to the discretion of the Court of Circuit or the Nizamut Adawlut according to the nature of the crime,—so a Hindoo master, illtreating a Hindoo slave, would be liable to precisely the same penalties as would attach to the commission of a similar offence by a Mahomedan, or a person of any other persuasion.

Vide Precedents of Law  
P. 317.

A case in point, as regards the liability of a Mahomedan master to punishment under the existing regulations for maltreating his slave, came before the Court in the course of last year; in which, the prisoner, a Mussulman, holding a responsible situation in the family of a native of rank, at Cawnpore, was indicted on the prosecution of Government, for being an accomplice in subjecting certain children whom he had purchased during the famine in Bundelkund to personal injury, cruelty and torture; and being found guilty of privity to the acts charged against him, was sentenced by the Court to imprisonment in the Zillah Jail. The Court further direct me to observe that the prisoner would have been liable to, and would doubtless have undergone precisely the same punishment had he been a Hindoo, or the professor of any other faith.

With reference to the concluding paragraph of your letter,—I am directed to communicate to you the opinion of the Court, in regard to the cases, as therein put,—that the Civil Courts would not be authorized in entertaining any claims of the nature of those in question, such claims being directly opposed to the law of the plaintiff in both the cases stated;—and further, that in all suits of the description of those alluded to in the paragraph of your letter under reply, the decisions of the Courts would be regulated by the provisions of Sections 8 and 9, Regulation VII. of 1832,—that is, by equity, justice and good conscience.

*Letter of Mr. W. Leycester, 2d Judge, Bareilly Court of Circuit, dated 15th April, 1836, to the Register to the Nizamut Adawlut, Fort William.*

I request you will lay before the Nizamut Adawlut, the accompanying record of a case,—apparently of great, and very just interest to two individuals, involving matters of much moment to the community at large, and of infinite importance to the feelings of a Government any way concerned in the encouragement of moral obligations among its subjects,—and more especially involving a duty in every British subject, to conform to the laws of his country, and to resist, to the utmost of his power, the degradation of his fellow subjects into a state of ignominious slavery, and to bring to notice the infamous practice of hiring out by professed bawds, as a matter of revenue, the persons of female slaves, for the purpose of public prostitution.

2. This case opens by the petition (No. 1 of the copied papers) of the bawd Jumeyut; who,—after setting forth that she had hired out a female slave Gunna (a ready money purchase of her's) to Hadee Yâr Khan, and an intermediate quarrel, when the said Khan was compelled to enter into a recognizance to have no further connection with her,—complains of the taking away of his slave, represents that there is a proposition on foot to unite her in wedlock backed by the law opinions of a Cauzee and Moofly, and praying the interposition of the Court.

This, after a few intervening papers, is followed by an order No. 2 from the Magistrate, to the Moherir of the Tanna of Jurutpore (a stage on the Bareilly side of Futtigurh) setting forth that it would seem from the verbal representation of Jumeyut, that Gunna had proceeded towards Bareilly, and therefore ordering him to apprehend her, and in case she had passed to pursue her.

The return endorsed herein, sets forth that some officers of the Cutwal of Furruckabad had previously taken up Gunna, at Jellalabad, (one stage nearer to Bareilly.)

This is followed by the examination of Gunna, No. 3; who states that her object in coming to Bareilly, was to get emancipated from public prostitution, and to obtain permission to marry, and adds that she has previously sent a petition to the Assistant to the Magistrate, accompanied by the Futwas, and that an English letter in her possession she had received from Mr. Colebrooke.

The Acting Magistrate's proceedings No. 4, conclude, among other things, by handing over on the 17th January, Gunna to Jumeyut; and as formal a receipt No. 5, for this person, as ever was granted for the purchase of any negro slave in the West Indies, is regularly accorded by Jumeyut and duly attested by subscribing witnesses.

On the 2d February, the Acting Magistrate's proceedings were called for by this Court, on a representation No. 6, filed by the Moktyar of Gunna (I do not allude to the case of Nabob Hadee Yâr Khan included in this record, as it is not connected with the reference.)

The proceedings were accordingly sent. But on the 6th February Mr. Wright sends us an examination No. 7, of Gunna, in which she disclaims her petition and denies her Moktyar, and this also upon oath.

On the receipt thereof, this Court by its Robekaree No. 8, summoned through the Magistrate all the witnesses to the Moktyarnama: Gunna herself and another female slave were said to be present.

Before the process was issued, at Futtigurh, the said Jumeyut decamped with her slave girls.

A communication is made to the Magistrate of Cawnpore, before whom Jumeyut herself attends, and gives in a petition No. 9: but we are told her slave girls are gone across the Jumna.

The evidence of the witnesses to the Moktyarnama tend to confirm the said document.

One point at issue,—between Gunna on one side, and her Moktyar and all the witnesses on the other,—is whether she has falsely, and on oath charged the latter with forgery supported by perjury, or not.

The papers noticed above, to which numbers are fixed, have been copied, and are sent also for the facility of reference.

It seems to me in this case, that several of the proceedings of the Magistrate have been unadvisable and objectionable.

The seizure of Gunna when on her way to Bareilly,—or if that were doubted, the not sending her, when she declared to Mr. Wright that her object was to appeal against compulsory fornication, and to obtain licence to marry honestly, accompanied even by a Peon if deemed necessary,—and the ultimate handing her over to Jumeyut, a professed bawd,—by precluding her from all hope of emancipation, placed her not very far from the situation, lately described by the Chief Justice of the Supreme Court which by the law of England would justify a slave in effecting his liberty by proceeding to the utmost extremity necessary to obtain it.

The Law of England may not be the law of our Regulations, but they are intended to assimilate, and they are not diametrically opposite.

With regard to the legality of pursuing Gunna to Jellalabad, on the verbal representation of Jumeyut, and by the Chuprasees of the Cutwal, to whom no process appears to have been entrusted,—I should think it very questionable, even if executed under every proper form and by the proper officers.

But it seems impossible not to contrast the active measures pursued at first, with the less active measures taken, to enforce the orders issued from hence.

The witness, Meher Ally Khan, deposes, that he heard at the Magistrate's Cutcherry, that he and Gunna were summoned to Bareilly; that two days after he learnt she was going away with Jumeyut and that he informed the Cutwal. The Cutwal's people could be active in preventing Gunna coming to Bareilly, and as he does not seem to have had orders either way, I must infer that he ceased from his activity with the same object: and when, after the expiration of many days, process is in vain issued by the Assistant in the absence of the Acting Magistrate, it seems unaccountable that some of the Omlah (who had witnessed the previous active measures of pursuit by which Gunna was brought back from Jellalabad,) could not suggest to the Assistant that the same measures might be equally effectual. A proceeding however was sent to the Magistrate of Cawnpore.

The Acting Magistrate's procedure of the 6th February does not seem very intelligible. For what purpose, does the Magistrate receive Gunna's Haseenama. There was no prosecution undisposed of before him; and on what grounds does the Acting Magistrate proceed to take her deposition, first without oath, and afterwards on oath; and on what grounds is she asked whether she had sent any petition to Bareilly. She had already on a former day told the Acting Magistrate she was going there herself, but he prevented her. Having said she was enticed away, she is asked by whom? and among others her answer points to Nabob Hadee Yâr Khan, who might, and with great propriety perhaps, be desirous of enticing away her affections, under the wish to make her his wife. But having thus taken her

deposition on oath, implicating others in a charge of forgery and of a gross contempt of this Court, on what grounds is she discharged without even taking a recognizance from her?

At Cawnpore Jumeyut attends the Magistrate, but we are told that Gunna and the other slave girl are gone across the Jumna. Jumeyut is also pleased to record a petition at Cawnpore, in which, she informs us that a company of forty persons depend for their livelihood on these slave girls, expresses her utter astonishment at the proceedings of this Court;—and this in a petition intended expressly for the Magistrate's office at Futtygurb,

But whether all this be legal or not, it seems probable that a scene so infamous, was seldom before exhibited to the world in the course of the administration of justice. A young female,—termed and treated as a slave, living under the protection of a British Government, which by an act of the Supreme Legislature treats slavery as a felony, but in what way acquired as a slave, no body knows,—is hired out to prostitution by her mistress, a professional bawd, (who dares to avow that the support of forty people depend on this and another slave girl,)—and apparently in the course of this profession, having been hired out to the Nabob Hadee Yâr Khan and acquired his affection, is disposed to be repentant of her former way of life and to unite herself in marriage with this respectable party, and the Nabob is equally desirous for the union.

But these just pursuits are thwarted, perhaps, and probably to the girl's irretrievable injury;—to say nothing of the disappointment of the Nabob.

The girl is debarred from appealing to a Superior Court, being seized on the way to it, and ultimately given over bodily to her mistress.

In fact, here is a practical denial of justice in one of the stages our Regulations allow, and I think a great wrong, which can only be remedied by the Superior Court.

*Answer of Mr. W. Wright, Officiating Magistrate, Zillah Furuckabad, dated 15th February, 1836, to Register of the Court of Circuit, for the Division of Bareilly.*

I have the honor to acknowledge the Court's Precept of the 6th instant with the accompanying copy of an Arzee.

1. The proceedings, in which five hundred rupees were ordered to be levied from Hadi Yar Khan, were sent upon a former occasion, and are now before the Court. But for the Court's further satisfaction and information, I do myself the honor of forwarding the proceeding, which contains a Moochulka, the amount of which was to be levied from Hadi Yar Khan.

2. The Court will observe, that Hadi Yar Khan, having in opposition to the letter of the Moochulka, forcibly detained Gunna against the inclination of her mistress, and having likewise attempted to prevent the girl being again recovered by or restored to her,—rendered himself liable to the penalty which it became my duty to levy from him.

3. I should not be sorry if the Court could discover cause for mitigating or altogether remitting the penalty ; because I have every reason to suppose, that Hadi Yar Khan was led by the pernicious advice given him by the Serishtedar of the Dewanny Court, to act the part he did ; and that if left to himself, he never would have attempted any thing so improper. He is a man of high respectability, of fair character and of the most correct deportment, so far as I know.

4. The Court cannot fail to notice the very conspicuous part, which Wellayut Ally Khan has acted in the affair in question. So far from shewing or expressing contrition for his highly disrespectful and improper conduct, I know that he continues still to take a very active part in the business. The Arzee given in by Abdul Razak, and denied by Gunna, I firmly believe to be his composition.

5. His pertinacious adherence to the line of improper conduct, he has pursued in this affair, has determined me to submit for the determination of the Court, whether he ought not to be removed from office. If offending ignorance is made to suffer fine and imprisonment,—what does he deserve, who with the advantages of an excellent education, long experience, a perfect knowledge of our Regulations and Laws, deliberately and contumaciously endeavours to resist the order of that Court, of which he is a principal officer,—without (if he is to be believed) being impelled to it by any motive of interest or of friendship for Hadi Yar Khan ?

6. Should the Court however be of opinion, that the punishment would exceed the offence, I beg of it to suspend any order on this point, that I may, at my earliest leisure, submit some further reasons, unconnected with this case, for the opinion I entertain, that Wellayut Ally Khan is unfit for, and underserving of the important office he fills. I did hope, that I should have been spared this invidious task, by being relieved long ago from the charge of this district. But since my expectations have not been fulfilled, and he has in a manner brought one instance of his own misconduct before the Court himself, I am resolved not to suffer my individual feelings to deter me any longer from performing an unpleasant part of my duty.

7. It may be proper to observe here, regarding the Razeenamah I forwarded to the Court a few days ago, that it was very probably executed by the desire of Gunna's mistress and of some interested persons ; because she did not acknowledge it, with the same degree of alacrity, with which she denied on oath all knowledge of the Arzee signed by Abdul Razak ; and we must suppose her to possess the feelings and sentiments common to our species and the vanity peculiar to her sex, which would be gratified by her being rescued from prostitution and becoming the wife of a man in so respectable a situation of life, as Hadi Yar Khan.

8. It was in this girl's case, that I requested the opinion of the Court as to the mode she should adopt to obtain emancipation, which she has been taught to hope she is entitled to by law. I hope the Court may now be of opinion that it is not foreign to its office to assist my judgment in this matter, and that in returning the proceedings to me, it will notice this point, in any order, it may have occasion to pass.

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*Answer of Mr. W. Leycester, 2d Judge, and Mr. C. Elliott, 4th Judge, Bareilly Court of Circuit, dated 17th February, 1816, to the Acting Magistrate of Zillah Furruckabad.*

We have received your letter of the 15th instant, in reply to our Precept of the 6th, together with its enclosure.

A short English Return on the back of the said Precept, referring to a Persian Robekaree, specifying what has been done in pursuance thereof, was the reply the Precept required. In the stead of which, you enter into a long discussion,—furnishing extra judicial opinions of the liability of Hadi Yar Khan in your 2nd paragraph,—stating in your 3rd paragraph your good opinion of Hadi Yar Khan, and that you should not be sorry if we could discover the cause for remitting the penalty under the suppositious assumption that he was influenced by Willayet Ally,—expatiating further on the subject of Willayut Ally in your 4th, 5th and 6th paragraphs,—observing in the 7th paragraph that the Razenama alluded to, was probably executed at the desire of Gunna's mistress, as the vanity of the former would be gratified by being rescued from prostitution,—and in the 8th that you hope we may assist your judgment to the proper mode to be pursued for the emancipation of a slave.

Many of these points might have been fit matter for discussion when you decided the case, but totally misplaced at present; and we do not wish to run the hazard of our judgment being influenced either way, by being informed of what may be your firm belief, or what you may have reason to suppose, in a case, which we have had, or may hereafter have before us, in any other than the known legal form of finding those sentiments in their proper place,—the Robacarree deciding the cause.

With regard to the 8th paragraph, the specification of the name does not alter the grounds on which we gave our opinion on the abstract question—viz. that we are not the proper authority to construe any dubious point of law. The proceedings inclosed with your letter, are returned.

*Answer of Mr. W. Wright, Officiating Magistrate, Zillah Furruckabad, dated 28th February, 1816, to the Register of the Court of Circuit for the Division of Bareilly.*

I have the honor of acknowledging the receipt of the Court's letter of the 17th February, 1816, replying to my address of the 15th, and objecting to the time and mode of submitting certain remarks therein conveyed.

It is not my practice when I pass orders in Fouzdaree cases, to detail at length the ground, on which they are passed,—except on particular occasions, where some explanatory remarks appear necessary. In the present instance,—since I had no discretionary authority to remit wholly, or in part, the penalty which Hadi Yar Khan subjected himself to, and I could not anticipate his intention to appeal, or foresee that the case would come ultimately under the notice of the Court,—there was no use in recording my sentiments, where they would have found a place under different circumstances.

3. Scarcely was the order passed regarding Hadi Yar Khan, when the Court in a Precept issued on Goonna's appeal, called for the record ; whereby a stop was put to my proceedings before the case was finally disposed of, or any order, beyond forbidding him for the present to interfere in the business of the Court, was past regarding Willayut Ally Khan.

4. Had this not been the case, had the record been before me when the Court's Precept was received, or had I resolved on submitting Willayut Ally Khan's conduct for the consideration and final orders of the Court, the remarks objected to, and a recommendation, in Hadi Yar Khan's favor, would have been introduced into a Robekaree containing the order for sending up the record to the Court.

5. Thus precluded from proceeding in the case, I wrote the letter. I was not aware that the remarks being submitted in that form, or in a Robekaree was a matter of the slightest consequence. Either would be a public document and a part of the record ; and I must further confess my want of discernment, in not perceiving that the same sentiments expressed in a Persian Robekaree, might have a different result in influencing the opinion of the Court when it came to revise the proceedings, if they found their way into an English letter standing in the place of a Robekaree.

6. As to my remark regarding Goonna's Razename, the two cases are intimately connected, and closely interwoven with each other, and the two appeals arose out of the same proceedings. The Razename was sent up immediately, and whilst I was sitting in Court. Hence to me, little circumstances which afterwards forcibly struck me on reflection passed unnoticed when they should have been, and I resolved, as I believed it was my duty to do, to supply the omission that the Court might be guarded against receiving, or acting unreservedly on that document.

*Answer of Mr. J. C. Dick, Assistant Zillah Furruckabad, dated 19th February, 1816, to Register to the Court of Circuit for the Division of Bareilly.*

I have the honor to inclose a copy of my Persian proceeding of this date.

*Answer of Mr. W. Leycester, 2d Judge, Bareilly Court of Circuit, dated 21st February, 1816, to the Assistant of the Magistrate of Futtehgur.*

We have received your letter, and its inclosure, of the 19th February in part reply to the Court's Precept of the 12th instant.

The Court is desirous of learning, whether you received that Precept and acted on it of your own authority ; or in what way, and when, and how, you received it, and on what day the orders directed were issued ?

It has at present a very singular appearance, that, of the officers entrusted with the two processes,—the one party should have been so zealously active in seizing back Goona from Jelallabad,—and the other party apparently so remiss in executing the measures directed in our Precept. You are directed to call on the Foujdaree Nazir, to explain this seeming neglect of his inferior officers; and you will endeavour to ascertain and report in what mode Goona, &c. became apprised of our address so as to find an opportunity of escaping.

You will also report, when the flight of Goona, &c. became first known, whether measures were taken to pursue her into the Cawnpoor district, as were adopted into the Bareilly district; and if not, the cause of such different measures being taken.

Should however Mr. Wright in the mean time return, you will transmit the report required of course through him; otherwise you will send it direct to this Court, and with as little delay as possible.

*Answer of Mr. J. C. Dick, Assistant Zillah Furruckabad, dated 8th of March, 1816, to the Judges of the Court of Circuit for the Division of Bareilly.*

I have the honor to acknowledge the receipt of a letter from your Court dated the 21st of February. The Acting Magistrate having some public business to transact in the interior at this district, left the Sudder Station on the 16th of February, on which date, he sent a number of papers to me, among which was the Court's Precept of 12th of the above month. As I wished to be informed in what manner I could best carry into execution the orders of the Court I wrote to the Acting Magistrate on the subject. In answer he stated that it would be advisable to summon the parties specified in the Precept through the Nazir, and on their appearance, either to send them to Bareilly under Burkundazes, or to take Mochulkas from them for their appearance before the Court of Bareilly. On the receipt of the Acting Magistrate's answer, I directed the Nazir immediately to summon the parties. Two of them, viz. Abshoobra Suman Khan and Moher Ally Khan appeared in Court, and Mochulkas of fifty rupees were taken from each for their appearance at the Bareilly Court within the period of five days. Moossamut Goona having left Jelalabad before the notice was issued, the summons could not be served on her: but on obtaining information that she had proceeded to Bittoor or Rujdyhan, I summoned her through the Acting Magistrate of Cawnpoor.

2. I regret, it has not been in my power to ascertain in what manner Moossamut Goona became apprised of your orders,—so as to find an opportunity of escaping. Should the Court deem this explanation not perfectly satisfactory, I trust they will not impute any defect in the execution of their Precept to neglect and remissness on my part. The case of the parties summoned had never been before me, and I was consequently unacquainted with the circumstances, and had no reason to suppose that the regular mode would not ensure their appearance at the Court.

*Answer of Mr. M. H. Turnbull, Register, dated 16th June, 1816, to the Bareilly Court of Circuit.*

I am directed by the Court of Nizamut to acknowledge the receipt of a letter from your 2d Judge, dated the 15th April last, and its enclosure, relative to the proceedings and orders of the Acting Magistrate of Zillah Furruckabad in the case of a female slave named Gunna.

2. With a view to ascertain the accuracy of the Futwa bearing the seal of Cazeo Mohumed Ibeg Alee, Moftee Syud Mohumud Wullee Ullah, Moulvee Saeed-oodeen-khan, which accompanied the petition of Moossamut Gunna, dated the 28th December 1815, and filed by the Assistant to the Magistrate of Furruckabad on the 30th of that month, the Law Officers of the Nizamut Adawlut were desired, on the 29th ultimo, to state their opinion whether the Futwa in question, assuming the facts on which it is founded, is conformable to the Mahomedan Law.

3. The whole of the Persian proceedings and papers received with the letter of your 2d Judge were also referred to the Law Officers for their information.

4. The answer of the Cawzy-ol-euzat, and one of the Moftees of the Nizamut Adawlut, (the other being absent on leave) is herewith transmitted, together with the whole of the original papers of the case; and you are desired to forward it, or a copy of it, to the Acting Magistrate of Furruckabad.

5. It appears by the concurring opinion of the Law Officers of the Nizamut Adawlut, that the Futwa delivered to the Acting Magistrate of Furruckabad,—which declared the purchase of Gunna, as a slave, by Mussamut Jumayut insufficient to establish a right of property, with reference to her not having been made captive in *Jehad*, or a war against infidels, and even if it were legally valid that the purchaser has no right to compel him to an act of criminality,—is strictly conformable to the Mosulman Law.

6. This is also confirmed by an exposition of the Mohummedan Law of Slavery, received from the Law officers of the Nizamut Adawlut, in answer to a reference made to them on 28th April, 1808,—as will be fully communicated to you by the accompanying copy of the question put to the Law officers on that date, and of their answers thereto.

7. Under these circumstances, the Court most deeply regret, that Mr. Wright, without any judicial enquiry to ascertain the legal powers and right of Mussamut Jumayut, should have thought himself justifiable in seizing the person of Mussamut Gunna, when on her way to Bareilly, for the purpose of being emancipated from prostitution and marrying the Nawab Hadi Yar Khan,—adopting measures which had an immediate tendency to prevent such marriage, and formally delivering over Gunna to a woman who had avowedly hired her out for the purpose of prostitution and professed her intention of doing so in future for her own support.

8. Although the Court are unwilling to ascribe to the Acting Magistrate any other motive than a mistaken sense of duty, under the supposed legality of Jumayut's claim and her consequent right to prevent the marriage of Gunna; yet they cannot acquit Mr. Wright of a very incautious and unjustifiable misapplication of the authority vested in him as a public Magistrate for the promotion of justice and good morals;—especially after he was advised of the Mahomedan law as applicable to the case.

9. The Court must further express their concurrence in the sentiment of your 2d Judge, namely, the irregular seizure of Gunna by the Chuprassy of the Cutwal of

Jelalabad, without any written process,—as well as upon an evident remissness in not taking measures for carrying into effect the order of the Court of Circuit, passed the 12th February for summoning Gunna to Bareilly, until she had left Furruckabad.

10. It appears from Mr. Dick's letter of the 8th March, that Mr. Wright left the Sudder Station for the purpose of transacting some business in the interior of the District on the 16th February. But, as he had previously received the order of the Court of Circuit, and it appears from the evidence of Meher Ally Khan, that Gunna and Jumayut were both then at Furruckabad,—the Court are of opinion that he ought to have taken immediate steps for executing the order of the Court of Circuit, instead of sending it with other papers and without any instructions to his Assistant as stated by the latter, who was consequently at a loss how to proceed; and by the delay of a reference to the Acting Magistrate gave the parties ordered to attend the Court of Circuit an opportunity of leaving Furruckabad before the requisite process was issued.

11. The Court direct that a copy of this letter be transmitted to the Acting Magistrate of Furruckabad, for his information; and with an admonition to be careful in avoiding any similar neglect of duty,—a recurrence of which would compel the Court to report his conduct for the most serious notice of His Excellency the Governor General in Council.

No. 85. *Answer of Mr. F. Currie, Commissioner 5th Division Zillah Ghazee-pur, to the Acting Register of the Nizamut Adawlut, Allahabad, dated 23d December, 1835.*

1. Magistrates acknowledge *prima facie* no right of one man over the person or property of another. If such right is attempted to be established by a Magistrate (as in the case of a master praying for the seizure of a runaway slave, or claiming the return of property, that a person, stated to be his slave, holds) the Magistrate refers the petitioner, or complainant, to the Civil Court to establish his legal claim.

2. In cases coming within the cognizance of the Magistrates in their judicial capacity, those officers are not in the habit of admitting the plea of slavery to bar the punishment, to which an offender would be subject for a breach of any of the Regulations of the Penal Code.

3. There are certainly no cases, in which the Magistrates afford less protection to slave than to free persons against other wrong-doers than their masters.

*Answer of Mr. G. Mainwaring, Civil and Session Judge, Zillah Goruckpore, dated 16th February, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad.* No. 86.

I have the honor to state, for information of the Court, that on enquiry, I cannot discover that the practice of slavery in any form has ever existed in this district. After a strict search, I can only find one case, amongst the records of the Judge's Court, in which an individual sued for the recovery of a slave girl : and in that, the cause of action originated in Shahabad, and the claim of the plaintiff was dismissed. I will however proceed to offer such observations, as have been suggested to me by the perusal of Mr. Millett's letter, and as have resulted from my experience and practice in other parts of India.

2. The legal rights of masters over their slaves with regard to their persons and property *practically* recognized in the several Courts in which I have presided as Magistrate, have never, to the best of my recollection, extended beyond that of masters over their apprentices, according to the English laws,—their engagements, or indentures, being equally liable to be annulled on a plea of ill usage, or other good grounds shewn, the denomination being in fact hypothetical, and having no affinity to the term as applied to the system prevailing or heretofore prevailing, in other parts of the globe.

3. As a Magistrate, I invariably gave the same consideration to complaints preferred by slaves against their owners, as I would have done to those of domestic servants against their masters, --in fact looking upon them in every point of view as much under the protection of the laws as free persons. In the Banda Zillah Court, petitions were frequently presented to the Magistrate, for the apprehension of slave girls said to have absconded. The same assistance was given, as would have been afforded to a master complaining of the desertion of his private servant. But, on the plea advanced, and established by the girls, that they were forcibly detained for the purposes of prostitution, they were summarily declared free, --the complainants being referred for redress to the Civil Court; where only any observance of the Mahomedan or Hindoo law as relates to slavery is, as far as my experience goes, enforced. If asked by what law or principle I was guided in my practice as a Magistrate, I would answer by the laws of humanity, and the principles of equity and good conscience.

4. I cannot call to mind, having in my practice in the Civil Courts ever had causes to decide involving the points adverted to in Mr. Millett's letter. In the few suits relative to slavery that have come before me I have, to the best of my recollection, been guided by the exposition of the Law by the Mahomedan or Hindoo Law Officer as the case might be.

5. In Behar and Tirhoot, domestic slavery prevails to a surprising extent. This fact first came to my notice when on my circuit at Mozufferpore as Commissioner of Sarun Division. On examination of the Registry books, I found one book entitled *Ijaranamahs* (Deeds of Lease or Tenure) which was solely set apart for the entry of indentures, binding an individual, or a whole family, in most cases for a trifling consideration, to slavery or servitude for a period, tantamount to perpetuity. I have a perfect recollection of one entry, in which an individual bound himself, his wife and children, and children's children, to servitude for a period of ninety-nine years, the consideration was nineteen rupees, and the purchaser or

holder of the deed, was a vakeel in the Judge's Court. This circumstance led me to enquire whether such cases were often litigated, and if so, by what principle the Courts were generally guided in their decisions. I perused several cases sent to me by the Judge of Sarun, chiefly investigated by the Sudder Ameens and Moon-siffs, and the decisions appeared to me all to depend upon the presiding authorities ideas of equity, without reference to law. In one, I recollect the decision gave freedom to the slave (the plaintiff) on the condition of his repaying the nett sum for which he had compromised his liberty (twelve rupees) his services being considered as an equivalent to the interest. The decision was upheld in appeal.

No. 87. *Answer of Mr. A. P. Currie, Joint Magistrate of Zillah Goruckpore, dated 28th January, 1836, to the Officiating Register of the Nizamut Adawlut, Allahabad.*

I have the honor to inform you that no cases of the description mentioned therein\* have been brought forward in this Court since I have been in charge of it.

\* Millett's letter, 10th October, 1835.

No. 88. *Answer of Mr. Wellesley Barlow, Zillah Ghazepore, dated 28th December, 1835, to the Acting Register of the Court of Sudder Dewanny and Nizamut Adawlut, Allahabad.*

2. No case between a master and slave having ever come under my cognizance, during the eight years that I have been vested with either the Civil or Criminal jurisdiction of different districts,—I am unable to state from experience what are the legal rights of masters over slaves practically recognized by the Company's Courts and the Magistrates ;—or in other words, what is the practice of those Courts in all cases of slavery: while as regards this district Ghazepore, upon reference to the Civil records, I find that only one civil action of this nature has been instituted since the establishment of the Zillah. This was a suit by Jaffer Ali Khan, in 1820, to obtain possession of a female slave by name Moosoomut Muhtab ; who had during a year of scarcity been let out on hire to him, in lieu of two rupees for the period of ninety years, by her mother Jhahan, the defendant in the suit. The suit was referred to the Sudder Aumeen for decision, and was upon default of defendant, decided *ex parte*.

3. With reference to paragraph 4 of the Secretary's letter, I beg to state that under Mr. Colebrooke's exposition of the Hindoo law, and under the existing enactments regarding slavery, as cited by the Law Commissioners, I presume that a Magistrate, when taking cognizance of the maltreatment of a Hindoo slave by his Hindoo master would—like the Sudder Dewanny Pundits alluded to by Mr. Macnaghten,—“be guided by reason rather than express law:” for Regulation VIII. 1799, the only penal regulation that would bear on the case, relates only to cases of murder and not to maltreatment.

4. In answer to the questions, contained in paragraph 5 of the letter of the Secretary to the Law Commissioners, I may state—

First, That I would not support the claim of a Mussulman master over a Hindoo slave,—such claim being (I adopt the law as laid down by the Commissioners) contrary to the law of the claimant; and that in doing so, I should consider myself acting according to justice, equity and good conscience.

Second, That I would admit a claim of a Hindoo master over a Mussulman slave,—such claim being *primâ facie* legal (I again take the law as laid down by the Commissioners); and I would decide the case according to its merits, throwing the onus probandi of the law upon the claimant.

Third, Slavery not being sanctioned by any system of law which is recognized and administered by the British Government except the Mahomedan and Hindoo laws,—I would not, under the discretionary power vested in the Civil Courts by Section 9, Regulation VII. of 1832, admit or enforce any claim to property, possession, or service of a slave—except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant.

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*Answer of Mr. W. Jackson, Additional Judge, Zillah Ghazepore, dated 16th December, 1835, to the Acting Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Allahabad.*

No. 89.

2. No cases have been made over to me, as additional Judge of Ghazepore, in the remotest degree connected with this subject. But in the course of five years, during which I performed the duties of Judge and Magistrate of Zillah Behar, where slavery is much more prevalent than here, I had frequent occasion to notice the defective state of the law on this head. And as it was necessary to dispose of the cases, which arise in some manner, my practice was to adhere strictly to the regulations as far as they established rules for my guidance and beyond that to follow the course which appeared to me most consistent with justice and humanity.

3. For the limits of the legal rights of masters over their slaves, after the paramount authority of the Regulations, I have endeavoured to follow the precepts of the Mussulman and Hindoo laws: but I have not considered myself bound to observe them where they appeared grossly at variance with the dictates of humanity. In civil cases I have found no difficulty in observing them strictly, but in matters of a criminal nature, although admitting the right of the master to the services of his slave, I have not considered him at liberty to enforce that right by violence or cruelty: by this rule, the only point left to the arbitrary determination of the Magistrate, is the limit between slight or salutary correction and cruelty: and it is but seldom, that a case occurs in which it is necessary to fix the boundary with great precision. In the same manner, I have considered slaves responsible for their acts to the same extent as freemen. In both instances, I have acted on the ground that the penal provisions of the regulations contain no reservation in favor of either masters or slaves. Had it been intended to recognize an authority in masters to maltreat their slaves, or to extend to slaves the indulgence granted by the Mahomedan law, the legislature would no doubt have expressed



such recognitions distinctly; it would be rather a stretch of interpretation to assume this attention on the part of the Government.

4. With regard to the order of the Sudder Court in the case of Zuhoorun, I have always viewed it in this light. Under the interpretation of the Hindoo and Mahomedan law, given in Mr. Macnaghten's treatises, violence or cruelty to a slave by his master does not authorize the ruling power to emancipate the slave; although the master is liable to fine in some cases by both laws. But the Sudder Court found it necessary to provide against a repetition of the violence; and as this could not be done effectually if the slave were returned to her master, they gave her, her liberty; and in doing so I think they were justified by the general authority vested in them by the regulations,—although not by the Mahomedan and Hindoo laws.

5. If a claim over a slave were advanced before me by a Mussulman or Hindoo, and it should appear that by the law of the claimant the slavery is illegal,—I should consider the claimant legally incapable of preferring such a claim and dismiss it accordingly: on the same principle I should not admit the right of any person not being a Hindoo or Mussulman to possess slaves in British India. If a claim were advanced against a person not being either a Hindoo or Mussulman, besides scrutinizing the validity of the claim under the claimant's law, I should take into consideration any general claim to exemption from slavery advanced by the person claimed. Until the enactment of Regulation VII. 1832, it was a principle of the regulations, that where the parties (Hindoos and Mussulmans) are of different persuasions the law of the defendant shall be observed; but this would not prevent a Judge from ascertaining whether the claimant under his own law is capable of preferring his claim. I do not at present recollect, whether cases of exactly this description have come before me: but the principles above-mentioned are those on which I have acted in all cases. I have never known a claim of slavery brought against a Christian, but if he were a native of India, I see no reason for exempting him from such claims.

6. Slavery is far from being the only point, in which it is necessary for judicial officers, in this country, to exercise a discretionary power in the administration of justice. This may at first sight appear very objectionable; but I believe there are points of this nature to be found in every system of law. The great infrequency of the occasions requiring the exertion of such a power, renders the defect rather nominal than real. I believe it is considered at least doubtful, whether too much detail and an attempt to be exact and complete, is not the greater defect of the two in this country, where we find two systems of Civil Law,—totally differing from each other, and each forming a part of the religion of a great portion of the natives, it is but natural that such difficulties should arise. We cannot be said to have a Code of Laws in India; the early Regulations laid down merely forms of procedure and a few general principles; and at the same time,—with a view to the future introduction of a more exact administration of justice and to prevent inconvenience arising from difficulties unforeseen by the legislature,—they established in the Sudder Court,—an authority capable of preparing new laws and vested exclusively with the power of interpreting those which existed. Probably this method of allowing the law to grow out of the necessities of the country, was the best which could be adopted for the purpose of introducing gradual improvement and avoiding the shock of a violent transition from bad to good: during the progress, of improvement however, the local officers must expect to continually find cases unprovided for and must do the best in their power to meet such exigencies.

*Answer of Mr. E. Peploe Smith, Magistrate, Zillah Ghazee pore, dated 26th January, 1836, to the Officiating Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Allahabad.* No. 90.

2. In reply to the 1st question—viz. what legal rights of masters over their slaves, with regard both to their persons and property, are practically recognized by the Magistrates?—I would premise, that as far as my own experience goes, cases, requiring the Magistrate to pass an opinion on the relative rights of master and slave, are of extremely rare occurrence,—a circumstance, which I am told, naturally results from the mutual understanding between the parties, and generally among the people, that domestic slavery is not contrary to the law, or at variance with the practice of their British Rulers; that the master has an undoubted right over the person and property of his slave, as much as over any other personal or real property purchased or possessed by himself or his ancestors; and that nothing short of gross injustice or cruelty on the part of the master, towards his slave, or of treachery and dishonesty on the part of the latter towards his master, would justify an appeal to the Criminal Court. Such being the prevailing notions on the subject, whenever a case of collision does arise, the practice observed is, in the first place, non-interference, as far as may be possible; and ultimately, so far to respect the customs as to prevent the issue of any order of manumission\* or exemption from service or other legal obligation. *Au reste*, all claimants to the person or property of any slave, under an instrument of sale, mortgage, or otherwise would, of course, be referred to the Civil Court. An example of this occurred at Ghazee pore, in the year 1829, the circumstances of which are briefly as follows. A charged B, with forcibly and illegally detaining from him his wife and child, praying the assistance of the Magistrate to cause him to deliver them up. An enquiry was accordingly directed from which it was elicited that the woman had been purchased by B when an infant, and had acted as his female slave (kuneez) ever since; that on her arriving at the age of puberty, she had, with her master's consent, been united in marriage with A, without prejudice to his (B's) right of property over her. The Court ruled that in such cases, it possessed no jurisdiction, and referred the complainant to a civil action; and the Commissioner after taking the Mooftee's opinion on the law of the question, concurred in this decision.

\* Vide spirit of Regulation X. of 1811, also Construction S. N. A., No. 99, 28th April, 1812, and Circular Order N. A., No. 141, dated 5th Oct. 1814.

3. With reference to the 2d question it appears to me, that the Magistrate would regard the relation of a master and slave, precisely in the light of parent and child, as justifying in the former instance that degree of correction and reproof, which is universally and avowedly exercised by the latter,—provided always that the measure of punishment were within reasonable bounds. And in this way, no doubt, acts, which would be unjustifiable towards a free person and punishable under the Regulations, would come to assume a different character, and either pass unnoticed by the Magistrate,—as warranted by the misconduct of the slave,—or would be visited with a greater degree of lenity than ordinary cases. But in well founded complaints of cruelty or hard usage, preferred by slaves against their masters, every protection would be extended to the former, which could be claimed by an indifferent person, except indeed, that of emancipation, which nothing short of the most extraordinary mal-treatment would authorise. With the indulgences which, in criminal matters, the Mussulman slaves enjoyed under the Mahomedan law, the Magistrate has nothing whatever to do, nor is any regard paid to such considerations in the trial of criminal cases.

4. In regard to the 3d question, I am decidedly of opinion, that no case could arise, in which practically, less protection would be afforded to slaves than to free persons against other wrong-doers than their masters, merely on the ground of their being slaves,—the amount of injury in both cases, being, according to the immutable dictates of justice, equal and identical: though here we shall, I fancy, be at issue with our native subjects; according to whose notions, a becoming respect and consideration is due to rank and caste, and consequently to the freeman over the slave.

5. With respect to the 4th question, I would observe, that the Criminal Courts of first resort, are guided in their decisions solely and exclusively by the Regulations, or where they fail, by the principles of justice, equity and good conscience,—the operation of the Hindoo and Mahomedan law of slavery, being wholly inapplicable to the proceedings of a Magistrate. Thus, whatever might be the law or construction of the law, as given by the eminent authorities cited in the 2nd and 3rd paragraphs of the Secretary's letter, in regard to the liabilities of a Hindoo master for maltreatment of his Hindoo slave,—that offence would be (with the reservation noticed in the answer to the first query) just as cognizable by the Criminal Court, as if the prosecution were laid under Regulation IX. 1793, Regulation IX. of 1807, or any other criminal enactment. Nor would any plea of proprietary right, be admitted in defence of oppression, or as exempting the master, convicted of cruelty towards his slave, from the usual penalties awarded in such cases.

6. The 5th and last questions relate exclusively to the Civil Courts, and therefore do not belong to this report.

7. Having answered to the best of my ability and judgment, the questions proposed for the consideration of the Court, as far as they related to my office, I will take the liberty of adding a few words as to the actual operation of the system, and its influence on the happiness of the enslaved,—premising, however, that in what may be advanced, I am not speaking my *own sentiments* on the subject of slavery, but merely the result of my enquiries into the actual working of the system, considered apart from the Courts of Justice.

8. Judging then from the familiar communications of several natives of both persuasions, with whom I have conversed on the subject generally, the system would appear to be most prevalent in large towns and cities, where society, being more refined, the value of personal service is far greater than in the less habited parts of the country; that it is altogether of a domestic character, bearing a close affinity to the relation of master and servant, or parent and child; that slaves, being considered as absolute hereditary property, any act of the Legislature, having for its object their emancipation, would be viewed by the masters as an interference with their private rights and interests, while the parties themselves who must be supposed to possess interest in the question, viz. the slaves, instead of being an oppressed and unfortunate race, are, generally speaking, better cared for and happier than any other class of domestic servants.

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*Answer of Mr. J. Thomson, Magistrate, Zillah Atingurh, dated 15th December, 1835, to the Officiating Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad.* No. 91.

2. I am not aware of any Regulation, which would authorize a Magistrate to recognize in the master any further power over his slave than he would possess over any other servant. I should certainly punish a master for an assault on his slave, and I would decline to aid a master in the recovery of his fugitive slave. Proof of any specific contract existing between the master and reputed slave would of course bring the case within the contemplation of Clause 4, Section 6, Regulation VII, 1819, but this is perfectly a distinct case.

*Answer of Mr. B. Tayler, Judge, Zillah Jounpore, dated 2d December, 1835, to the Register of Sudder Dewanny Adawlut, Allahabad.* No. 92.

2. I am not aware, that slavery exists at all in this district. I have never heard of complaint being preferred by a slave against his master for ill treatment, nor of a master applying to the Court to enforce the services of a slave. A practice obtains of mortgaging the services of children for a certain number of years commensurate to the probable term of life, but it is never enforced. When the children arrive at maturity, they remain with their masters or not as they please. In all cases, they receive wages and food, and in the event of harsh treatment, immediately leave their masters and seek for service elsewhere, and I do not believe any attempt would be made to compel them to return.

*Answer of Mr. C. Tulloh, Officiating Magistrate, Zillah Jounpore, dated 24th December, 1835, to the Officiating Register of the Nizamut Adawlut, Allahabad.* No. 93.

2. Slavery in this district, as far as I am aware, does not exist in its true acceptation, nor have any cases connected with slaves been brought to my notice; some there are, I believe, who are denominated slaves, i. e. slave girls; but they, I have always understood, are looked upon as belonging to the family and are kindly treated.

3. Did slaves complain of receiving ill treatment from their masters, I would investigate the cases alike with others without any distinction, and punish the defendants or owners accordingly. The right of the master over the slave I would not recognize—moreover, if slaves ran away with property belonging to their owners, I would issue orders for their capture, and I would punish them as thieves and

afterwards set them at large. If slaves ran away, provided no property was stolen by them, I would take no steps to apprehend them.

4. No cases having been brought to my notice, I cannot pass an opinion on the subject, but were complaints filed in my Court by either owner or slave I would investigate them as between man and man, and not as between master and slave.

No. 94. *Answer of Mr. W. Gorton, Civil and Session Judge of Benares, dated 23d January, 1836, to the Officiating Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad.*

2. I have no recollection of any case between master and slave, having come under my consideration, either in the Civil or Criminal Court in the course of my experience: nor have I any reason to believe, that cases of this nature, that is, complaints by slaves against their masters for cruelty or ill usage, are at all common or frequent; indeed I rather incline to the opinion, that it is the reverse, and that slaves are generally treated with great kindness and consideration. Exceptions to this rule may be met with, but I think very rarely.

3. As far as I can learn, the practice of the Courts does not recognize any other relation between a master and his slave than that of master and servant (not a slave) in ordinary cases,—that is, in cases of cruelty or ill-treatment; nor am I aware that less protection is ever afforded to a slave, than a free person under circumstances stated in 3d paragraph of Mr. Millett's letter.

4. With reference to the 4th and 5th paragraphs of Mr. Millett's letter, it must depend much on the nature of the claims preferred, whether the Courts would be authorized in admitting them: for although no express law or regulation may exist, the Courts are to be guided by justice, equity and good conscience in such cases.

No. 95. *Answer of Mr. D. B. Morrison, Magistrate of Benares, dated 20th January, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad.*

Those officers, who have presided in the Civil Court, will best be able to explain the principles upon which their practice has been founded; and it will be, perhaps, sufficient for me to state that if I were called upon to decide regarding rather the persons or property of slaves, I should have no hesitation, however unwilling I might be to do it, in deciding in favor of masters in cases of clearly established slavery. Where there existed the slightest doubt of the legality of the slavery under the Hindoo or Mahomedan laws, as interpreted by Messrs. Colebrooke and Macnaghten, I should allow it to weigh in favor of the slave.

I am aware of no case, in which the relation of master and slave has been recognized in the Criminal Court here, as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of punishment; nor am I aware of any instance, in which such relation has ever been used, as a plea either of justification or mitigation. I consider always, that slaves are as much entitled to protection on complaints preferred by them of cruelty or hard usage by their masters as any freeman; in fact I observed, that it had all along been the at Benares, to consider a slave as much as possible in criminal matters an equality with a freeman. Such a system I have endeavored to uphold; and I am convinced that in punishing upon clear evidence a master for maltreating a slave, none of the native community would think that any illegal or unjust stretch of authority had been exerted. I must, at the same time, state that the general treatment of slaves is so good, that there is hardly ever any cause of dissatisfaction. They are in fact, upon nearly the same footing as servants,—excepting that they cannot sue summarily before the Magistrate for any wages or remuneration for their services, though in every other respect, as far as regard their personal treatment, they find equal protection with a free laborer.

It is nowhere enacted in the Regulations, that the condition of slavery, places a man out of the bounds of that protection which the British Government has all along professed to extend to every denomination of its subjects; and the general intent of these regulations sufficiently, in my opinion, warrants a conclusion, in favor of the maltreatment of any slave, (be he Hindoo or Mahomedan,) being cognizable by the Criminal Courts.

I am of opinion that should the rule laid down in Section 3, Regulation VIII. of 1795, be deemed inapplicable to such cases, no person ought to be judicially pronounced a slave unless the claimant can prove him to be one legally according to his, i. e. the claimant's own law. And I think that, with the exception of Hindoos and Mussulmen, no other class of our subjects can bring into Court or expect a Court to enforce any claim to property, possession, or service of a slave: for, saving by the Mahomedan and Hindoo laws, slavery is not sanctioned by any system of law recognized and administered by the British Government.

*Answer of Mr. H. H. Thomas, Civil and Session Judge of Mirzapore, dated 25th January, 1836, to the Officiating Register of the Sudder Dewanny and Nizamut Adawlat, Allahabad.*

No. 98.

2. It has so rarely happened to me, to have the trial of cases, civil or criminal, involving the relative rights of master and slave, that I can scarcely offer an opinion grounded on judicial experience. I will however state, what would be my probable mode of proceeding in emergencies. If, for instance, a slave complained of his master's cruelty towards him, and I found, after investigation, that the master had but inflicted a slight correction for some alleged fault, I do not think that I should take further notice of the complaint. If, however, the conduct of the master were proved to have been wantonly tyrannical or unnecessarily severe, then I should not scruple to visit him with as heavy a penalty as if he had assaulted a free man.

In thus affording to the slave whatever protection was in my power, by taking strict cognizance of his master's ill treatment, I conceive that I should act agreeably to the spirit of our Regulations: which being inimical to the whole system of slavery, could not consistently permit the plea of proprietary right to be urged as ground for mitigation of punishment.

3. But, whatever plea may be set up by the master, in justification of his inhumanity, and whatever weight it may have with the Court, it appears to me clear that the slave ought to be fully protected from all other wrong-doers, who can have no plausible pretence for molesting him. Being in a state of bondage, and in most instances the property of an individual, it is highly improbable that a slave should intentionally come in collision with others than his master.

4. With advertence to the 5th paragraph of Mr. Millar's letter, I am of opinion that, in the absence of a particular law, the decision of cases of the nature therein described should be governed (as Section 9, Regulation VII. of 1832, has provided) "by the principles of justice, equity and good conscience:" that is to say, justice, equity and good conscience according to British notions of those virtues; which would incline to give to the slave the benefit of any doubts or difficulties attending a claim to his person or property.

No. 97. *Answer of Mr. W. H. Benson, Officiating Commissioner of Circuit, 4th Division, dated 20th January, 1836, to the Officiating Register Sudder Dewanny and Nizamut Adawlut, Allahabad.*

2. I should premise that the only cases, connected with slavery, with which I can tax my recollection, as having come under my notice during my period of service, (which has been passed chiefly in this Presidency and in the Judicial branch of the service,) were, 1st, a case of attempt to dispose of a child as a slave by persons charged with having kidnapped a free child for that purpose; and 2nd, a charge of theft preferred by a proprietor against a slave, in the investigation of which, the general regulations as applicable to cases in which free persons might have been concerned, had free course. I have never had occasion to recognize, by any judicial act, the proprietary claim of one man over another: under these circumstances, I am unable to answer the first query as to the practice of the Courts, in the recognition of legal rights of masters over slaves in these provinces.

The same bar is opposed to my affording information regarding the 2d and 3d queries, as far as the practice of the Courts is concerned; but I feel bound to state that I should conceive it incumbent upon me, under the general Regulations, in the cases contemplated in these queries, to administer the same measure of justice, and to extend equal protection to slaves as to any other subjects of the British Government.

4. In reply to the 4th query, I may state that, the Regulations of Government in regard to punishments for cruelty or any minor amount of bodily ill usage, making no distinction between bond and free, I should consider myself bound by them to make no distinction in practice. One particular case of cruelty is specifically provided for by the Circular Order, Nizamut Adawlut, No. 4 of 27th April, 1796.

5. With regard to the hypothetical case put in the 1st part of the 4th paragraph, the laws of the plaintiff and defendant differing regarding the legality of the claim, I should unhesitatingly prefer that which should be most favorable to the slaves; more particularly as it would be contrary to reason, that, in such a case, the plaintiff should be benefitted by a law which he did not himself recognise; and in reply to the second hypothesis, contained in the same paragraph, I may observe that I should reject under the existing Regulations, a claim to property in a slave, instituted by any person not being a Mussulman or Hindoo; well as a claim made by any person whatsoever, against any other than a Mussulman or Hindoo;—in the former case, on the ground already stated, that the plaintiff has no right to benefit contrary to the dictates of humanity by a law which he does not recognise;—and in the latter case, I should consider myself bound to be guided by the law of the defendant, which, in the absence of any direct Regulation or Construction, must be taken to be that of an ordinary British subject, in settlements in which slavery is not authorized by law.

*Answer of J. Mr. Dunsmure, Civil and Session Judge of Zillah No. 98.*  
*Allahabad, dated 8th of December, 1835, to the Officiating Register*  
*Sudder Dewanny Adawlut, Allahabad.*

2. I beg to state that no cases connected with slavery have come before me, either in the Civil or Sessions Courts. So far as this district is concerned, I should say that slavery exists but in name: for the term slave appears too harsh to apply to a class of people, who are generally treated in every respect like any member of the family with whom they are living. During the late famine, in Bundelkund, had the practice of purchasing children been prohibited, thousands must have died from actual starvation.

3. The Courts, in this district, do not appear to recognize any legal rights of masters over their slaves, and would undoubtedly punish them for cruelty or hard usage, without any advertence to their relative position. I should consider myself bound to afford the same protection to a slave as to a free person, and such would appear to be the principle, on which the Courts have acted. But in matters connected with slavery, the local authorities have no defined law or rule of practice to proceed upon, and the course of their proceedings is guided either by what usage has sanctioned or reason may dictate.

*Answer of Mr. A. Spiers, Officiating Magistrate of Zillah Allahabad, No. 99.*  
*dated 23d November, 1835, to the Officiating Register Sudder*  
*Nizamut Adawlut, Allahabad.*

2. The question relative to the laws applicable will, I presume, be answered by the Court. My observations shall be chiefly confined to practice. There are two classes of persons in bondage—1st, slaves in the usual acceptation of the word—and



Sic. original.

2d, persons who for a certain sum have mortgaged their labour,\* bound themselves to serve their creditors till the debt be liquidated. Many of the first class are the offspring of those who have themselves, as their fathers were, been slaves. This class are added to and acquired chiefly in time of general distress, famine, and the like. The master purchases the children from the parents : they are all brought up to profess the Musselman faith, and none of another faith are held as slaves by Musselmans.

The Regulations of the British Government, not having been specifically exempted any class of persons, from the protection of the Magistrate, he grants, without reference to Hindoo or Mahomedan, a slave the same protection as any other person,—and punishes a master to the same extent for ill-treating a slave as he would for ill-treating a free-man. As to service the slave would be treated as menial servants : in short slaves are treated as free-men and the same protection is granted to them. For several years past, the Magistrates here have refused to lend their aid to apprehend and restore to a master a runaway slave. This is a considerable check on the master. Any excess of bad usage or hard work induces the slave to abscond. It is not the custom in this part of the country for masters to sell or otherwise dispose of their slaves. They remain in the family so long as the master can support them : if his means fail, the slaves leave and work for themselves. In one instance I have heard of the slave supporting his late master's widow. Slaves are never hired out by their masters for the sake of gain.

In Hindoo families, the slaves are generally Kuhars, Ahurs, or Chumars, who retain their distinct caste. The observations above made are generally applicable to Hindoo slaves.

The second class of persons in bondage are generally employed in agricultural labor,—while those of the first class are employed in-doors. A very considerable number of the ploughmen are persons bound to labour for their creditor, the debts are at first generally between twenty and thirty rupees. They receive scanty, variable wages, and cast off clothes. They are at liberty to work for themselves, when their services are not required by their masters ; some masters claim a right of transferring them to another person who made good to him the sum advanced. This however is seldom, if ever done : the debtors generally manage to select a creditor. Most persons seem to think, that when a master becomes unable to support his *Hurwa*, the latter may shift for himself. On the death of the original debtor, the sons become answerable for the debt in equal proportion, and are bound to serve till their share be liquidated. Daughters are not answerable for debts. Many of this class have been from generation to generation in one family. Till a few years ago runaway *Hurwas* were seized by the Magistrate and made over to their creditors or masters. This is not now done. Masters are referred to the Civil Courts for recovery of advances. When *Hurwas* leave a master and go else where, it is understood amongst the people that the new master should repay the sum advanced to the *Hurwa*. Debtors of this class are treated in every respect as free men.

The remarks made are applicable to this part of the country. I know that in Behar, and more to the east, real slavery exists : here it exists but in name.

*Answer of Mr. S. Fraser, Judge, Zillah Bundlekund, dated 15th March, 1836, to Officiating Register to the Sudder Dewanny Adawlut, Allahabad.* No. 100.

After enquiry, I cannot discover that any cases of slavery, have ever been brought forward in the Civil Court of this Division.

2. The only cases, which have ever come to my knowledge, are those of slave girls escaping from the palace, at Delhi, which are always referred to the Criminal Court. I believe, at one time it was usual, on the establishment of the claim of the owner, to restore the fugitive. But for some time past, this has been discontinued; and no claim of this description is recognized, nor any right of restraint over the person of any individual, on the plea of ownership, male or female, admitted. The latter consequently, in criminal matters, enjoy all the privileges of other members of the community.

*Answer of Mr. R. C. C. Clark, Acting Magistrate, Bundlekund, dated 2d January, 1836, to the Officiating Register to the Nizamut Adawlut, Allahabad.* No. 101.

2. In reply to the first question, it may perhaps, without fear of contradiction, be stated, that there is a general want of legal information and established course of proceeding, in almost every office,—entailing a proportionate degree of uncertainty in the decisions of the Magisterial authorities on cases of the above nature, coming before them for adjudication; and it would, therefore, be impossible to lay down any clear and determined rules of guidance as those practically recognized by the Company's Courts,—every Magistrate being I believe in the habit of using his own discretion subject to the dictates of reason, justice and humanity. These decisions are doubtless in many instances repugnant to Mahomedan Law; which, while it provided for the food, clothing, marriage and protection of the slave, as stated in the Bab-ool-hukkook of the Imam Azzum, does not tolerate the authority of the ruling power, to bestow freedom on proof of cruelty or ill usage, in the Babool Kuza of the same lawyer. With the view of throwing further light on the subject, I might here narrate a case which occurred a few years since at Mooradabad,—indicating the extent of the legal right of the master over the children and property of a deceased slave as admitted in a Magistrate's Court; which would seem to be perfectly analogous to the old Roman Law of Inheritance regarding the vernæ, or the children of the slaves surnamed *contubernales*. A respectable native named Allodeen Khan of the above place, was possessed of two slaves, a man and woman, whom he married. The woman went astray: and her husband dying a short period after, and leaving two daughters and considerable effects,—she came forward and claimed her offspring and the property as the lawful heir. This being objected to by the master, the case came into Court,

and two Futwas were obtained; both of which were in favour of the master, on the grounds that as he had a right of property in the parents, all that they possessed with their children must also necessarily be his; and that more especially so in a case, where the mother had committed adultery. The woman was, therefore, non-suited, and the master admitted as the legal heir of his slave.

3. With reference to the 2d and 4th questions, I beg to submit, that the same protection of person is to the best of my knowledge extended to a slave as to a freeman against cruelty or hard usage; and that the relation of master and slave would not justify any act on the part of the former against the latter, which would otherwise be punishable in any other person or be deemed a legal ground of mitigation. With regard to the indulgencies alluded to in the 2d paragraph of the letter under reply,—which I conceive to be the same as those mentioned in the Bab-ool-hukkook of Imam Azzum,—I should deem it my duty to adhere as closely as possible to the spirit of the Mahomedan Law.

4. The third question may be replied to in the negative;—which it may be observed is in express conformity with the principles of jurisprudence, laid down by the Imam above quoted, who while sanctioning exemptions of Kisas in the case of a slave slain by his master, provides for the protection of the slave if ill used or killed by any other person,—in opposition to the absurd doctrine of the Imam Shafce, who argues that if a freeman kill a slave he shall pay Deyut or 5,000 Derums to the master, because, (adds the Sophist,) the word Kisas implies equality which does not exist between a freeman and a slave: but that if a slave slay a slave, or a slave a freeman, he shall suffer Kisas; for in the former case they are equals, and that if a man be not exempt from such penalty for killing an equal, how much less ought he to be so for killing a superior. He also goes on to say, that a man shall suffer Kisas for slaying a woman and a woman for a man,—thereby obtaining a principle contrary to the maxim of his own doctrine of equality as above enjoined. The Imam Azzum on the other hand urges, that Kisas has only reference to equality in the religion of the parties; for that the fact of Kisas being demandable from a slave, for slaying a freeman who are not equals refutes the doctrine of its applicability to persons. Again that the law of the Prophet ordains that, a man shall die for a man, a woman for a woman, a freeman for a freeman, a slave for a slave: and that as the Imam Shafce admits that a man, is not exempt from Kisas, for killing a woman or a woman for a man, the same principle ought legitimately to be applied to freeman and slaves; on both of which last mentioned points, the law of the Prophet is neither clear or expressed.

5. With regard to paragraph 5,—whether the Court would support the claim of a Mussulman master over a Hindoo slave, when according to Hindoo law the slavery is legal, but according to the Mahomedan law illegal and *vice versa*,—it might with propriety be suggested that, the *onus* of proving an exclusive right over any person as a slave ought to rest with the master, and that where he is unable legally to establish such claim agreeably to the tenets and precepts of his own religion, be he Mahomedan or Hindoo, the claimant's title might with good justice be deemed inadmissible: for the Mahomedan Law ordains that the followers of the Prophet shall not exercise any power over any persons as slaves, excepting those who can be proved to be such by the Mahomedan Law; and it would require no great strain of inductive reasoning, or moral argument, to apply the same rule of guidance in adjudicating cases of that nature in which Hindoo masters might be one of the parties. Such at least would be the maxims to which I should adhere.

6. A great improvement would seem to have progressively taken place in the condition of the slave. They now rarely endure any physical duress, and are generally treated as a part of the family; while formerly it would appear to have been, a leading characteristic among both Hindoos and Mosulmans, to look upon them rather as transferrible property than rational beings. Still the stigma, that is attached to slavery, is not obliterated. There is a personal restraint, an infringement of liberty; and it needs no eloquence to shew that they are a degraded race, and not at their own disposal. The body may not suffer, but the moral servitude is retained; and the mind remains sordid and debased, and man still unjustly inherits that, which should only be imposed on the public offender. *ob malum actionis*. The immediate emancipation of all male slaves, with a prohibitory edict against the exertion of authority in future over any man as a slave, might without fear of opposition be decided on and enforced. The present state of society however, and the jealous suspicion, with which established prejudices and customs connected with women are regarded in this country, would (it is to be regretted) appear to raise an insuperable barrier against imparting the benefits thereof, to the helpless females immured within the walls of the zenana: for though they might legally be included in any such act of government, it is difficult to conceive how the advantages and privileges of freedom, could be even practically extended to them or their heirs.

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*Answer of Mr. H. Pidcock, Magistrate of Humeerpore, dated 21st December, 1835, to the Officiating Register of the Sudder Nizamut Adawlut, Alláhábád.*

No. 102.

1st. The right of a master over his slave is laid down at length in the Mahomedan and Hindu Codes; agreeably to which, however, cases of this nature are, I believe, never disposed of in our Courts of Justice. Not because the Magistrate are unacquainted with the native laws applicable to such cases,—but because they are so directly opposed (especially the Hindoo) to our notions of reason, liberty, and right. As far as my limited experience goes I have never seen, in our Courts, any distinction made between slaves and freemen.

2dly. I have never seen any distinction recognized by our Courts between slaves and freemen: the cases arising between master and slave have always been disposed of, as if no such connexion existed.

3dly. None, as far as my experience extends.

2. I have searched this office and not a single case is to be found. In fact disputes between masters and slaves are of rare occurrence in every part of the country, with which I am acquainted. Hindoo slavery is of very limited extent, and among the Mussulman, slaves are treated almost as members of the family.

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No. 103. *Answer of Mr. R. J. Tayler, Officiating Judge of Zillah Futtehpore, dated 22d February, 1836, to the Officiating Register of the Sudder Dewanny Adawlut, Agra Presidency, Alláhábád.*

2. I have been but a short time in this Zillah, and have not heard of any slavery existing in it; neither has my experience in other districts been more fortunate. There is the custom of hiring the services, or rather of receiving children by deeds of contract or mortgage for a certain number of years, about as many as they can be useful,—perhaps about thirty-six years. I have never met with an instance of a slave complaining against the master or mistress. In general they are treated very kindly, are well fed, clothed and receive wages. Should they be harshly treated they abscond.

3. I remember the circumstance of a procuress, at Patna, bringing a young girl before me when I was Officiating Magistrate of that city, charged with running away,—she having been purchased from her parents and brought up by the old hag, most probably for the purpose of prostitution.

4. The girl complained that the woman had ill treated her and that she had in consequence ran off to a Sowar, who protected her. I ordered the girl to be released and go wherever she pleased, and refused to let the woman take her away. There was no appeal from the order, and I might have punished the procuress under the Regulations, had any one brought a complaint of her buying the child for so vile a purpose.

5. The children who are bought by Mahomedans of rank, are in most instances treated better than hired servants, and sometimes adopted and well provided for.

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No. 104. *Answer of Mr. H. Armstrong, Officiating Magistrate, Futtehpore, dated 26th of January, 1836, to the Register of the Nizamut Adawlut, Allahabad.*

2. The records of this office do not afford any light on the subject of slavery,—owing to no complaints of cruelty and ill usage having been brought to the notice of the Magistrate. Nor do I believe there are, in this district, any slaves who have been brought and imported from foreign countries. This class of beings is only to be found on the establishments of the wealthy; and there are no persons, in this Zillah, who are rich enough to keep them. The only description of slaves, if they can be called such, with whose cases, I have ever had any experience, were the children of the inhabitants of Bundelkund, who were sold by the parents during the famine which prevailed in that country in 1833-34. In the latter year three cases of cruelty on the part of the masters and mistresses towards some of these children were brought to my notice. In two of these instances, I not only released the children on the principle that their owners were not fit or deserving to take care of them, but also punished them;—in one case, to the extent of my power, and in the second case, committed the owners who were punished by the Session Judge. In removing the children from their owners, I considered I was acting on the principle of English justice; and although the Regulations may not authorize such

a measure, I should still feel I had performed my duty, in accordance to the rules and dictates of humanity, if in future, I released any slaves, who preferred true complaints of cruelty against their masters,—unless prohibited to interfere in such cases by an express Regulation, or by the order of the Superior Court.

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*Answer of Mr. R. Neave, Officiating Judge, Zillah Cawnpore, dated  
25th January, 1836, to the Officiating Register Sudder Dewanny  
and Nizamut Adawlut, Alláhábád.*

No 103.

2. With respect to the three first queries, I am unable to answer them specifically from these circumstances,—that during the time that I have been in the country, now comprised under the Agra Presidency, I have not seen one instance where a master has come forward to call for judicial compulsion of his slave's services, or where a slave has complained against his master for oppression.

3. In this letter,—save with the exception hereinafter made, in regard to the description of men of or belonging to the district of Behar, called Kahars,—I allude to the Mussulman population alone, since it is those only who keep domestic slaves, as far as I personally know the state of the case. The reason, why such cases have never come before me, is principally, that my experience, since 1833, has been wholly confined to the Delhi Territory, where for a long time the name of slavery only has existed. Its reality has been long extinct. This is a most important fact, as proving that, the abolition of slavery may be easily accomplished if desirable. Having been, before my appointment to Delhi, for eight years in South Behar,—where I have myself as Register and Civil Judge, daily decided cases of purchase of whole families of predial slaves or Kahars,—I was astonished to find that slavery was not recognized at Delhi. I was informed on enquiry, that since Mr. Seton's time, no claim to a slave, or to compel slaves to work, have been allowed; and I found the established practice of the Court, that whenever a person petitioned that, another person had claimed him or her as a slave, an Azadnama or certificate of freedom was given him or her, to the effect that they were free. I gladly hailed this custom; but I pursued another course which I deemed more effectual. It struck me that issuing these Azadnamas or certificates was, to a certain extent, allowing the existence of slavery in some sort or other. When similar applications were made me, I used merely to pass an order, that slavery did not exist, and informed the petitioner, that if any person molested him or her, he should be punished.

4. In respect to information, I have acquired from other sources, I beg to submit, that many details of the practice at present in use in the Courts cannot be expected,—principally I have reason to believe because, but few cases ever came before these Courts. My experience has not given me conclusive evidence, that the Hindoos have slaves, or carry on the practice,—save in regard to the Kahars of South Behar above alluded to, and whose case I shall hereafter more specifically bring to notice. As to Mussulmans and their slaves,—the reasons of but few cases coming before the Courts are two-fold. First, because there are but few domestic slaves; and secondly, those that there are, are well treated.

5. The Mussulman Law allows slavery in only two cases. Capture in war, and purchase in times of scarcity to save parents and children from starvation. The first of these sources, is almost wholly cut off, if not entirely so, since the importation of slaves has, by Regulation III. of 1832, been rendered penal. These causes render slaves scarce. Secondly, the slaves in India have every facility of escape, while owing to the known repugnance of our Courts to make a slave over to his alleged master, the master has, in case of his slave's escape, scarcely any mode of recovering him. This leads the master, from self interest, to conciliate and make much of a servant, who if ill treated has the remedy in his own hands.

6. If, after acknowledging that I have not known any cases such as those alluded to in the first, second and third questions, I was asked, what practice I should follow, were such cases to come before me; I should indubitably reply, that I should acknowledge, no relation of master and slave to justify any acts otherwise deserving of punishment, and no case, wherein I would afford less protection to a slave against his master than another man. I acknowledge the toleration of the name of slavery; but I know no Regulation of Government, which compels a Magistrate to carry the precepts of the Mahomedan Law into effect on the subject of slavery. As far as this, I allude merely to the Criminal jurisdiction between master and slave. Cases of property, wherein slavery is acknowledged, since it is recognized by the law of the land, may be tried in the Civil Courts.

7. The 4th paragraph of the Secretary's letter adverts to Hindoo slavery. No cases of Hindoo slavery, have ever come to my knowledge, save those in the district of Behar above alluded to: and with respect to these people, I have the honor to furnish a memorandum, drawn up from replies made a few years ago to some queries of mine. It is a curious fact, that I recollect but one case which ever came before me in the Magistrate's office, where a complaint was made to me in the Ramghur or Behar districts on this subject; and this was not for maltreatment, but was an averment on the part of the plaintiff, that the defendant falsely claimed him as a slave. The fact is, that the plaintiff had himself acquired a considerable fortune by traffic, and the defendant wished to avail himself of his rights as master to participate in this affluence. With the exception of this one instance, I never saw a cause in any Court, where the persons sued for as predial slaves, did not acknowledge the fact of being so, and the dispute used to be merely as to the fact of ownership. The slaves themselves, were often times called upon by the parties, to declare to which side they belonged. In respect to the question put by the Law Commission, I can only reply, that had such a case come before me as Magistrate, I should have judged the parties of the case, as if they were not in such relation to one another as that stated.

8. In regard to the question proposed in paragraph 5th of the letter under acknowledgement, I beg again to say, that such cases never came to my knowledge. As the Magistrate's Courts have no power to decide cases of property, the Courts alluded to must be the Civil Courts. In such cases of difficulty,—where the diversity of the law created almost insuperable difficulties, and permitted a doubt under any circumstances,—I should act, according as the Regulation quoted has it, by justice, equity, and good conscience. Abhorring as I do every thing in the shape or form of slavery, I should in the two cases noticed, take advantage of the ambiguity to annihilate the damned cause of dispute. Where the claim is on the part of a Mussulman, and it is by his own law illegal, I should hold his claim void on his own shewing; and where it was valid on his side, and not by the Hindoo Law, I

would dismiss the case because the defendant could not legally be a slave. I would only hold the slavery conclusive where both laws coincided, for two reasons; first, because persons putting themselves in such positions should themselves be fully aware of the liabilities they incur, and of the insecurity of such transactions from the natural difficulties of the case; and secondly, because such a course would reduce an evil, not likely to be otherwise removed, to a minimum.

9. In respect to the last question,—as to the enforcement of any claim to the property of slave, except on behalf of a Mussulman or a Hindoo against other than a Hindoo or Mussulman,—I beg to say, that as it has been the custom of the Civil Courts that all parties should have their cases decided by their own laws, the only rule that could be laid down would be on the same principle,—that a plaintiff whose laws allowed slavery might sue, and not otherwise: and the principle of decision would be that mentioned in the last paragraph. The case is of course a supposed one; such never occurred to me.

10. On the whole, it seems,—that there is little reality in the slavery of India, and that it is, with the exception of one description, more in name than reality;—that there are very few principles and precedents recorded in our Courts on the subject, because there are but few evils attendant on its practice;—that the uncertainty of the law on this subject, and the general tendency of all judicial decisions towards loosening, rather than tightening the chains of slavery, have conducted considerably to the downfall of the system and to the mitigation of its discomforts, where it exists. I further finally think, that in this instance, it is wholly useless to consult the Hindoo and Mussulman prejudices, or to pay any respect to them,—except that it might be advisable to effect the end proposed, by a prohibition of the purchase and sale of any slaves whatever hereafter, and by a limitation of the extent of slavery for these at present in that state.

11. One more remark I wish to make, and it is of some importance. That slavery in any way may be abolished as above, I doubt not, and I wish it may be so. Still when we consider in every year, and particularly in years of scarcity, how many lives are saved, both of, children who have nothing to eat and parents who have nothing but the food given in exchange for their hungry children,—it may be a question,—which though political economists and populationists may consider it foreign to the matter at issue,—humanity may ask, whether a modification of an absolute prohibition of this practice may not be permitted. May not a change of the term “slavery” to “apprenticeship” take away much of the odium of an appearance of things after all very similar in themselves? Might not the parents save the lives of all parties by transferring, in case of deep distress, their children to more affluent individuals, provided there be a condition for the education of, care towards, and eventual release of, children so transferred? This subject will, I trust, be duly considered.

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No. 106. *Answer of Mr. C. M. Caldecott, Magistrate, Cawnpore, dated 27th November, 1835, to the Officiating Register to the Sudder Nizamut Aduwlut, Alluhabad.*

2. I am not aware of any Criminal Regulation in force in these Provinces, which in any way gives a master any right over his slave,—beyond that, which he possesses over his hired servant, with regard to offences against the person. If a slave runs away from his master, I do not authorize his being delivered over to his master again against his will; and if any charge of maltreatment were proved against a master, I would punish him to the same extent, as if the person maltreated had been a common servant.

3. As to “a slave’s property,” I have had no practical experience; but if any case were to arise, I should uphold the person in possession, and refer the other party to the Civil Court; because a Magistrate has nothing to do with the right to property, but merely to decide upon the fact of possession.

As however I have had no case of Hindoo slavery before me, my remarks apply exclusively to Mahomedan.

4. Slaves according to Mahomedan Law may, I believe, be of two classes, absolute and conditional.

“Absolute” when acquired from a “Darol Hurb”—In this case the slave and his descendants are the property of their master. Many however of the conditions required to constitute a “Darol Hurb” are a matter of dispute among learned Mahomedans of the present day; and the acknowledged conditions are of such a nature, that I doubt whether any slave in these Provinces could be proved to belong to this class. At any rate I have never found any slave proprietor able to prove such a title; and, unless this primary objection be overcome, of course the claim must fall to the ground; even if we allow, that in such matters, our Criminal Courts are bound to decide strictly according to the principles of the Mahomedan Law.

“Conditional” by purchase, &c. from a third person—under pretext of famine or inability of the disposer to support the individual made over to slavery. In this case, the receiver is not bound to ask any questions of the seller, but the slave can at any time obtain his liberty by application to the *Cazee* or *mutato nomine*, the Magistrate. A claim, therefore, for the recovery of a slave of this class can never be entertained. But most learned Mussulmen deny that such can even be called slaves.

5. Upon the above grounds, I have hitherto made my decisions: and to the best of my knowledge these decisions have never been upset.

6. The above remarks render any answer to questions two and three unnecessary.

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*Answer of Mr. J. Cummine, Officiating Joint Magistrate, Zillah Belah,* No. 107.  
*dated 25th January, 1836, to the Register of Sudder Dewanny and*  
*Nizamut Adawlut, Allahabad.*

2. During my few years of service, no case, involving a consideration of the relative rights either of master or slave, has come to my notice or under my cognizance. I am, therefore, unable to furnish any information on the three points alluded to in Mr. Millett's letter, which refer to the practice of the Courts and Magistrates in such cases.

3. I am equally disqualified from offering any remarks, on the latter paragraphs of that letter, from having resided in the Provinces, where I never observed any reason to believe that slavery existed, either amongst Hindoos or Mussulmans, and consequently never had occasion to give particular attention to the subject.

*Answer of Mr. C. Fraser, Officiating Commissioner, 2d or Agra* No. 108.  
*Division, Multra, dated 6th February, 1836, to the Officiating*  
*Register Nizamut Adawlut, Allahabad.*

The reports of the Magistrates to the Court, lead to the conclusion,—that no legal settlement of the relative rights of master and slave, has been made in the Courts of this Division,—and that somewhat illegally, the former class of persons have been discountenanced, and their rights have been summarily set aside and hastily disposed of.

Our Criminal legislation has been framed on the basis of the Mahomedan Code,—with such modifications of it, as were from time to time deemed just and proper by the ruling authorities: and although, no express enactment has been promulgated for our guidance in this department in modification of the Mahomedan Law of Slavery,—now that the question has been mooted, Government have full power to introduce one, as a remedy for the objectionable provisions of that law, and may declare, that in our Courts masters and slaves shall be placed on the same footing, and equal justice administered to all.

Slaves however, as defined by the Mahomedan Law, are, I believe, not to be found in the Provinces within this Division: and, since our penal Regulations have nowhere recognized them, as a separate class of the community, in all trials for crimes specially noticed in them, no distinction would, I presume, be made in cases, when the parties stood in the relation to each other of a master and slave. But in crimes, not thus provided for, and where we are referred to the Mahomedan law to apportion the punishment for an offence of which a master or his slave may be convicted,—we are, I conceive, legally bound to abide by that law in our judgments. But such cases seem never to have occurred; and the state of bondage, which prevails to a certain extent in this part of India, would not come within the legal designation of slavery as understood by a Mahomedan Lawyer.

All rights of property, come before our Civil Courts; and the law which is to be followed in their decisions, is laid down in Sections 8 and 9 of Regulation VII. of 1832. But here again, I am aware of no precedents, relating to these provinces, respecting the rights of masters and slaves; and the natives have not called for any.

When a Mahomedan should file a suit against a Hindoo slave, the law of the plaintiff would be decidedly more favorable to the defendant than his own: and, as the *onus probandi* would be cast upon the former, he would in most, if not every, suit, fail in obtaining a decree. But in the case of a Hindoo master and a Mahomedan slave, the reverse would happen. I have never had myself to decide a suit, in which the parties were thus of different religious persuasions; and I should on all occasions, where personal rights are involved, be averse to deprive a defendant of the benefit of his own law; and Section 9, Regulation VII. of 1832, might be pronounced inapplicable to suits between masters and slaves.

Hindoos and Mahomedans outnumber every other class of our subjects in this Division; and our Courts, Civil or Criminal, are frequented almost solely by them. What law should be applied, when one not of those persuasions claims a slave, would depend upon the law, which may be pointed out as the one to be followed. But I suspect that a plaintiff would have little chance of discovering one, which could substantiate his right, and I look upon the filing of a claim as imaginary and highly improbable.

The people in the Lower Dooab would, I am satisfied, make no complaints, were an Act to be passed declaring slavery to be an illegal state; and such an Act would, of course, set at rest all the difficulties involved in its existence.

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No. 109. *Answer of Mr. A. W. Begbie, Officiating Judge of Zillah Mynpoory, dated 9th March, 1836, to the Officiating Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad.*

2. With reference to the three queries, contained in the first paragraph of Mr. Millett's letter, I beg to state, that I cannot call to mind a single instance, in which application has been made to me, as a Judge or Magistrate, either by a master or slave,—by the one with the view of enforcing his authority—or by the other, of seeking the protection of the law. As the above questions refer entirely to the practice of our Courts, I am consequently unable to afford any information on the points at issue, founded on experience; which would, alone, I presume, be considered desirable.

3. In reply to the enquiry contained in paragraph 4 of Mr. Millett's letter, I beg to observe, that,—as by the construction of our Courts, the Judges are bound in criminal cases to adhere to the provisions of Mahomedan Law, (as modified by the Regulations) whatever may be the religious persuasion of the parties; and as, by Section 15, Regulation VIII. of 1803, the persons of slaves are protected from extreme violence on the part of their masters,—I should have no hesitation, under the enactment above referred to, in recommending to the Nizamut Adawlut the infliction of capital punishment on a Hindoo master, convicted of the wilful murder of his Hindoo slave. Whether in cases of maltreatment of a less aggravated nature, the Criminal Courts would be justified in interfering between a master and his slave,

unless such interference were expressly authorized by the Mahomedan Law,—appears extremely doubtful. With occasional exceptions, our Regulations seem to have been intended to provide for the regulation of the intercourse between freeman; and if slaves, in India, have found their condition meliorated since the establishment of the British Supremacy,—the beneficial change is, I imagine, to be ascribed, rather to the well known abhorrence, entertained by the ruling power, of the state and practice of slavery, than to any special provisions of the law in the behalf of this unfortunate race. To this general impression, must, I think, be imputed the rarity of cases connected with slavery, which have come under official cognizance. The agitation of the subject is carefully avoided, from a fear that new laws might be made, which would materially affect the condition of the slaves, whose value (merely as property) would diminish in proportion to their rise in the scale of society.

4. With respect to the queries in the 5th paragraph, I, with deference, would observe that I should consider myself fully justified, in dismissing the claim of a Mussulman master to a Hindoo slave, where the title was clearly opposed to the principles of the plaintiff's own law and religion. Where the master's claim, on the contrary, was supported by his own law, but opposed to that of the slave defendant, (as the Courts are not bound to observe the Mahomedan Law in Civil suits, unless where both parties are of that persuasion,) I should incline, in this case, also to decree in favor of the slave, on the principle recognized by Clause 2, Section 6, Regulation V. of 1831. In the absence of any specific enactment, I should in the words of Regulation VII. of 1832, be governed (to the best of my judgment) by the principles of equity, justice and good conscience..

5. The last question, relative to the claims of other than Hindoo or Mahomedan masters, is difficult to be answered. Amongst the Americans, and many European nations, slavery is still permitted by the law; and it has, indeed, but recently disappeared in the Colonies of the British Empire. So far as British subjects, therefore, are concerned, no difficulty remains. But with respect to foreigners, I should conceive that considerable doubt might reasonably be entertained. Fortunately, such cases must be of rare occurrence, and it is always in the power of the Government to guard against such, by a distinct legislative enactment.

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*Answer of Mr. H. Fraser, Magistrate of Zillah Mynpoory, dated 30th of January, 1836, to the Register Nizamut Adawlut, Allahabad.*

No. 110.

2. I beg to inform you, that there is no record in my office, of any case of the nature specified. Nor does any question of the relation between master and slave appear to have been brought before the Magistrate of this district. Slavery too, is unfrequent; and I have reason to believe, legal slavery under a strict construction of the Hindoo or Mahomedan Laws, would, comparatively, in few cases be found to exist. Under the name of *Golams*, however, amongst Mahomedans, and Cheeras, amongst Hindoos, many families of substance have domestic servants of both sexes. But in two instances only, during my official experience, do I recollect, complaints made in the Magistrate's Court, to compel the return of slaves to servitude.

3. The first case was at Juanpoor, ten years ago, by a dancing woman, on the plea that two girls had been sold by their father to her, and since absconded; when the claim was disallowed,—as it appeared that the girls, at the time of sale were of a marriageable age, and sold against their consent. In the second case, at Shajūhanpore, a girl had become the favorite concubine of her master and been turned out of doors by his wives; as the poor girl had no other protection, and the master appeared attached to her, a reconciliation took place,—he promising to protect her from the anger of his wives.

What protection would be afforded to slaves.

4. With regard to the protection to be afforded to slaves, it must be confessed the present enactments are unsatisfactory. But, as the Mahomedan law has been declared, when not modified, the Criminal law of the country, I should consider,—the penalties for maltreatment of slaves therein laid down, equally applicable to Hindoo masters,—and the Resolutions of Council, quoted in Mr. Millett's 3rd paragraph, as referring only to the rights of property in slaves.

5. It is, I conceive, doubtful whether a Magistrate would be justified, under any circumstances in requiring runaway slaves, to return to servitude,—although the Mahomedan law and practice may authorize the proceeding: and it is probable, that Magistrates may have passed such order; as the enactments for their guidance, hitherto have furnished rules only in particular cases,—leaving other matters either to be decided by analogy and expedience, or furnishing no remedy for numerous petty wrongs of constant occurrence.

6. On the subject of the last paragraph of Mr. Millett's letter, it might be presumptuous in me to offer an opinion. But I conclude, no proprietary right of slaves could be recognized in individuals, neither Hindoo or Mussulman,—the Resolution in Council above alluded to, specifying no other classes. With respect again to the claim of a Mussulman over a Hindoo slave, where by the Mahomedan Law, the right is invalid,—as the Koran, and its commentaries, are the only code of law recognized by the Mahomedans,—no claim in opposition to its tenets, could be maintained. The case again of a Hindoo master and Mussulman slave, is of very unfrequent occurrence, the difference of faith, rendering such a slave a very useless member of a Hindoo family; for whom they are little likely to make a claim, which I suppose would not have been admitted under a Mahomedan Government.

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No. 111. *Answer of Mr. J. P. Gubbins, Officiating Joint Magistrate, Zillah Etawah, dated 31st December, 1835, to the Officiating Register of the Nizamut Adawlut, Allahabad.*

No cases, in which masters or slaves were parties concerned, have come before me since in charge of this Joint Magistracy.

2. From the enquiries, I have made, I have reason to believe that slavery does not exist in this part of the country in the male sex: and as regards the female sex, it is so completely confined to the private apartments of the better class of natives, that it is not easy to ascertain the extent to which it prevails.

3. It is however a very rare occurrence, for a female slave to leave her master's house on account of bad treatment; and in such cases I have never allowed females to be restored to their masters against their will, which is, I conceive, agreeable to the spirit of British Legislation; though it does not strictly coincide with the Hindoo or Mahomedan laws, that recognize the state of positive slavery in both sexes.

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*Answer of Mr. J. Davidson, Officiating Civil and Session Judge, Agra, dated 2d January, 1836, to the Officiating Register of the Sudder Dewanny Adawlut, Allahabad.*

In reply I beg to inform you, that from the best enquiries I have been able to make, it appears that the condition of slavery in these provinces, is an uncommon one: and that, as in the actual relations of society, slaves can be obtained only by an illegal act, viz. the purchase of children, the possessors of such will not, either by harsh treatment, or by claims to person, service, or property, bring themselves within the danger of the Regulations; whilst on the other hand slaves, who think they can do better for themselves, quit, of their own free will, their master's household for ordinary service; and those, who from ignorance or habit do continue in it, do so because in all material respects their treatment is the same as that of any hired servant. There does not appear to have been, within the memory of any one, connected with the Civil and Criminal Courts of this jurisdiction, a single case in which either of the parties, has appeared in the relation of master or of slave. The principle of the Courts and the Law Officers, in the event of any formal complaint or claim being made by parties coming forward as master or slave, would be, by a rigorous construction of law, to shew, that in the actual instance, the conditions necessary to constitute legal slavery by Mahomedan or Hindoo law did exist: and that, therefore, the case of the party termed slave was to be tried on its merits according to the Regulations and to natural justice, on exactly the same footing, as that of any other free subjects.

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*Answer of Mr. S. G. Mansel, Magistrate of Zillah Agra, dated 7th December, 1835, to the Officiating Register of the Nizamut Adawlut, Allahabad.* No. 113.

I have been unable to find in the Agra Court, any criminal case in which the prosecutor and prisoner stood to each other in the relation of slave and master, or indeed to trace any proceedings whatever, which can throw any light upon the nature of the rights and immunities supposed to exist under the law of slavery among the Hindoo and Mahomedan population. To the practice, therefore, of the Criminal Courts I cannot speak from precedent.

But as regards the principle, by which the Criminal Courts should be guided in applying the general provisions of the existing penal law to slaves and masters of whatever religion,—the question does not, I confess, seem to me surrounded by any great difficulties;—in respect at least to that portion of the British dominions which was included in the Mahomedan Empire, virtually during the reign of Aurungzebe, and nominally too during the convulsions to which Hindustan and Bengal were subject during the eighteen century. Whatever part of the territories of the Company were embraced within his Darool Islam, were by law and practice subject to the criminal jurisdiction of the Imaum and his delegates. During the reign of Akbur (1) no doubt the Hindoos retained much of the privileges of their Shasters, but in the subsequent three reigns, there seems no sufficient reason for considering that the Mahomedan criminal law was not effectively and indiscriminately enforced upon all classes of society. All questions connected with public wrongs were determined or at least were, I conceive, liable to be determined by the law of the Imaum; and whatever proprietary rights in slaves were permitted or acknowledged to rest in the persons of infidels, these could be but merely recognized as subsidiary to the paramount rights of the Hakim as the successor of Mahomet the conqueror of the country, and depositary of the law as well as the religion of Islam. Such at least, it appears clear, the Mooftes would have ruled in his futwah, and the Cazee would have enforced in his order, during the seventeenth century: and hence, as the Regulations of the British Government, in regard to offences against the state as distinguished from private wrongs, distinctly recognize the Mahomedan law as the criminal code of the country, I feel no scruple in expressing my opinion that Hindu masters, in respect to responsibility for the ill-treatment of slaves, possess not, legally or rather constitutionally, greater immunity within the limits referred to, than could be claimed by the professors of the Mahomedan religion, under the futwabs of our own Mooftes.

C. 1, s. 16, R. 7, 1803.

Should this view of the subject, appear in any degree fanciful or forced, it is to be remarked that the criminal law as administered under Regulation VI. and Regulation VII. 1803, is undefined and anomalous to a degree; which renders it necessary to the student to fall back upon first principles, and the Magistrate, among conflicting analogies, must select that which is most "consonant to natural justice."\* Clause 1, Section 16, Regulation III. 1803, would doubtless, bar a claim for damages for personal injury on the part of a slave, against a Hindu or Mahomedan master. He is presumed to possess no civil rights. But the ruler of the country, the Hakim-ool-Wuqf, or the father of his subjects, alike under the Mahomedan law, the English law, and the law of nations, is justified in reserving in its own hands the power of depriving any subject of life or limb, and in punishing whoever assumes to himself a prerogative, which can be claimed with fairness and administered with justice by the state alone.

In this part of Upper India, Hindu or Mahomedan slavery can scarcely be said to exist. In the District of Agra, there is not, I believe, one single individual, in the state of a lawful slave. By lawful slave, is meant of course, an infidel who has fought against the faith or the descendant of a person of this class. Of course

(1) The toleration of Akbur towards the Hindus was notorious: but even he in his instructions framed for the guidance of the Police directs "He must not allow private people to confine the person of any one, nor admit of people being sold as slaves. He shall not allow a woman to be burnt contrary to her inclination." Ayan Akburee, p. 302, vol. 1.

during famines and even under the pressure of ordinary poverty, parties are in the habit of selling (as the phrase of the common people runs) their children, to those who can provide for them. But the dictum of the sale of free children being invalid in a Mahomedan country, is regarded by the ablest Mahomedan lawyers, as sound in law; as it is clear that, it is so, in jurisprudence; and this being admitted, the disposal of any infant to any party, Hindu, Mahomedan, Armenian or European, subsequent to the subjection of any province to the sway of the Dehli Empire, is clearly illegal. After this period, the attempt to infringe this law must of necessity be a criminal offence, and the successful infringement of it, can convey no rights whatever over any particular individual or his offspring in after times.<sup>(2)</sup> Doubtless, however, there exist in <sup>(3)</sup> Behar on the North Eastern Frontier, in the Deccan, and in other parts of India, parties, who were made lawful slaves under Hindu monarchies, never subjected to Mahomedan rule, or who become such previous to the spread of the Moghul Empire beyond the north of India. The nature, therefore, of the status of those unfortunate beings will of course be defined with more difficulty. It is obviously however useless for local officers to enter into detailed discussions,—as to, laws which were never enforced, rights which have never been defined,—and involving principles of reasoning of a fixed character, which were never thought of by the semi-savage despots who have ruled in India from the earliest period to which her annals reach.

The number of lawful slaves, under the more restricted rule of the Mahomedan law, must in every part of India, once subject to the Delhi Emperors, be very small indeed. The power of the Mahomedan master over them, is properly qualified and scarcely exceeds that conferred upon a husband, a father, or a school master, for the salutary correction of the party placed in a state of subordination to a superior. As Section 19, Regulation IX. 1807, and Clause 7, Section 2, Regulation LIII. 1803, contemplate the infliction of a maximum of punishment,—the Criminal Courts would of course be justified in acting with that leniency to slaves which the Mahomedan law in a certain class of causes directs. The soundness of this principle however may be well doubted, and practically I have no doubt that the distinctions made in the inflictions of Hudd by the Mahomedan Cazee on slaves, would be designedly (and properly so) overlooked by the European Magistrates in administering criminal justice under the regulations above named, and by which regulations the penal power of the rules of Hudd and Tazzer have been modified and extended, if not annulled.

(2) Aboo-ul Fuzle states of the Hindus—"They have no slaves among them;" and this too when the Empire embraced fifteen Soobahs extending from Mooltan to the Bay of Bengal and from the Himalye to Mandow. The descendants of this class of people in the Provinces, now under the Bengal Government, must therefore be very free.

(3) The parties of whom Mr. Fleming makes mention in his evidence before the House of Lords clearly exist in a mere state of contract service; while the slave population, which Mr. Baber in his evidence before the same bar, states to be spread over Canara, Malabar, Travancore, &c. to the awful extent of four hundred thousand souls, are clearly the aborigines of the country; of the history of whose subjection to the bonds of slavery, we have no accurate account, but to whom doubtless the Mahomedan Criminal Law cannot easily be held to apply. Hamilton, indeed, mentions that the slaves of Malabar are very severely treated.



- No. 114. *Answer of Mr. W. H. Tyler, Magistrate, Muttra, dated 12th December, 1835, to the Officiating Register, Sudder Nizamut Adawlut, Allahabad.*

I have the honor to state, that the extent of slavery within the Zillah of Muttra is extremely limited, that it consists almost entirely of female slaves, and that these are exclusively in the possession of Mahomedans. The number is estimated at about fifty or sixty,—whilst the male slaves are said not to exceed fifteen or twenty.

According to the Hindoo and Mahomedan Laws, the master,—has a legal right over the person and property of his slave,—can claim from him the performance of the household duties,—give him correction when negligent,—and dispose of his services to another. But these rights have not, I am informed, been admitted in these provinces. Since the introduction of the British rule,—the practice of the Courts having been to dismiss the claims of a master, and to give redress on the complaint of a slave,—complaints of this nature to the Courts, I am told, have been rare. For myself I can say that during the ten years I have been in these provinces not a single claim on the part of a master or complaint of a slave has been brought before me. The general belief amongst the natives, is that our Government does not recognize slavery. It certainly does exist but it is merely in name. The slaves are always well treated and looked upon as part of the family.

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- No. 115. *Answer of Mr. J. Neave, Judge, Zillah Alligurh, dated 30th of January, 1836, to the Officiating Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad.*

2. Slavery in its general meaning is not known in this district, a species of it exists in a very mild form in the houses of the wealthy under the term *khanehzad*, but merely in name: for an individual of this class, enjoys the same rights and is in every respect as free as other men.

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- No. 116. *Answer of Mr. H. Sretenham, Officiating Judge of Zillah Furruckabad, dated 28th November, 1835, to the Register Sudder Dewanny Adawlut, Allahabad.*

2. From enquiry and from my own experience, I am disposed to consider that there never has been a suit instituted in the Civil Court of Furruckabad regarding rights of masters over their slaves, with respect to person or property.

3. Although it has been determined that the spirit of the rule, contained in the 15th Section, Regulation IV. of 1793, for observing the Mahomedan and Hindoo laws in suits regarding succession, inheritance, marriage and cast, and all religious

usages and institutions is applicable in construction to cases of slavery. Such construction has been circulated and enforced, I believe only in the lower provinces.

I am not aware that any similar\* construction has been laid down for the practice of the Courts, under the Agra Presidency, with reference to the corresponding enactments of Clause 1, Section 16, Regulation III. 1803, and Section 8, Regulation VII. 1832, and I am, therefore, inclined to think, that there exists a latitude for the Courts in these Provinces to decide such cases, by the principles of justice, equity, and good conscience, agreeably to the provisions of Section 9, Regulation VII. 1832. As the laws, with exception to the subjects provided for in Regulation X. 1811, and Regulation 1832, are silent on the matter of slavery, this is an inference only: and were a case to come judicially before me, I should deem it necessary to refer to the Court of Sudder Dewanny Adawlut, to ascertain, if the constructions of the Bengal enactment were to be applied to the Regulations, enacted for these Provinces,—ere I ventured to give judgment in such case.

\* Mr. Millett quotes the Resolution of the Vice President in Council, dated 9th September, 1827: "I do not think this has been circulated for the guidance of the Courts."

4. I believe the general impression amongst the natives, is that slavery is abhorrent to the principles which guide the judicial authorities; and that no one would hazard the expence of a suit in the Civil Court for rights connected with slavery.

5. In the Magistrate's Court of Furruckabad, I have known cases brought forward within the last two or three years,—in which applications have been made to recover female slaves who have runaway from their masters,—which have been rejected: and I have, when Commissioner of Circuit, orally explained to individuals that an appeal would be ineffectual. I have slight recollection of a case, in which a Newab was fined for maltreatment of a female slave.

6. I have heard it asserted by a native in Rohilkund, that if a slave went before a Magistrate with a petition on eight annas stamp paper, praying for emancipation, that it would be granted. Whether such belief arose out of the practice of any Court I am not able to state.

7. Complaints, preferred by slaves against their masters, of cruelty or hard usage would be heard equally the same, as similar complaints from freemen. No mitigation of punishment would be grounded on the Hindoo or Mahomedan Law. Such complaints are however of rare occurrence; which is not however proof of non-existence of evil of the kind. For, it is well known that, great cruelty is often exercised: I have personal knowledge thereof. The want of freedom probably stifles complaint.

8. Protection, if sought, would be granted to slaves, the same as to freemen as far as circumstances would admit,—against other wrong-doers than their masters.

9. With reference to the 4th paragraph of Mr. Millett's letter as "to what law or principle maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the Criminal Courts," I would observe that, the Criminal Courts are not in any case guided by the Hindoo or Mahomedan Law. The Regulations of Government define the cognizance of the Criminal Courts. In misdemeanors and smaller offences, the Magistrate's powers are defined without respect to persons, caste, or religion; and in the Sessions Court, unless specific provision be made for any particular offence, cognizance is ruled in Clause 7, Section 2, Regulation LIII. of 1803, the same for all classes of people, who may be amenable to the Court.

10. Section 9, Regulation VII. 1832, appears applicable to the point noticed in the 5th paragraph of Mr. Millett's letter.

11. That the abolition of slavery would produce considerable dissatisfaction amongst the wealthier classes, cannot be doubted though no more need be anticipated, than occurred on the abolition of Suttees. The principle of humanity dictates the propriety of granting freedom of person to all, who may be under the British protection. The regulation proposed by Mr. Richardson, in 1809, and the amendments suggested thereon by Mr. Harington, appear too complex for the understanding of those, for whose benefit they are proposed. Nice points of Law would tend to perpetuate slavery. I would suggest,—that the construction, by which the spirit of Section 15, Regulation IV. 1793, Clause 1, Section 6, Regulation III. 1803, and Section 8, Regulation VII. 1832, may be rendered applicable to slavery be forthwith annulled—that it be enacted that slavery is not recognized by the British Government,—and that the Magistrate be empowered, to declare any individual Hindoo, Mahomedan or other free,—who may complain of being held in bondage, contrary to their wishes,—and with powers to maintain his decision subject to appeal.

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No. 117. *Answer of Mr. F. H. Robinson, Magistrate, Zillah Furruckabad, dated 30th November, 1835, to the Register Sudder Nizamut Adawlut, Allahabad.*

Neither in this Criminal Court nor any that I have known, is it the practice to acknowledge the right of masters over slaves, or the claims of slaves on masters.

2. The reason I take to be this,—that although slavery is recognized by the Regulations, yet there is no express enactment sanctioning the interference of the Magistrates. There are few Englishmen, who without some strong motive, would enforce the rights, if such a term can be used, of the master over the slave. Thus on application for arrest of runaway slaves, the answer is ready, that the Courts have no authority to restore slaves to their masters. In the event of cruelty perpetrated and complaint on the part of the slaves, the case is treated as one of assault of one freeman on another; for we have no Regulation authorizing a master corporally to chastise his slave. It follows, that no indulgence is shown to slaves under the Mahomedan Law, in consideration of their status, in the event of their committing crimes. In no case, is less protection extended to slaves suffering from other wrong-doers, than their masters.

I have no doubt, that a Regulation might with perfect safety be passed, abolishing slavery in the Western Provinces, and authorizing any major slave, to sue out his or her freedom in the Magistrate's Court. At the same time, provision might be made,—authorizing parents to bind over their children as apprentices till the age of, say twenty-one,—defining the relation of master and apprentice. Many thousand of indigent children, would be taken and brought up by wealthy individuals on these terms, to the relief of their parents,—especially in time of scarcity or famine.

*Answer of Mr. S. M. Boulderson, Commissioner of Circuit, Bareilly,* No. 118.  
*dated 28th January, 1836, to the Officiating Register to the Court*  
*of Nizamut Adawlut, Allahabad.*

3. Few cases of complaints of ill-treatment, or for emancipation, appear to have come before the Magistrate of this Division; and in one instance only,\* does it appear that less protection was afforded to a slave on complaint of severe beating, than would have been granted, under similar circumstances to a freeman. And the reason assigned by the Magistrate, for the leniency with which the accused was treated, is rather conjectural than real.

\*In Bareilly

4. The Magistrates in this Division recognize no legal rights in masters over the persons of their slaves; and their right to property acquired by slaves, appears generally to have been considered as a question appertaining to the Civil Courts.

Vide particularly the report from the Magistrate of Bijnour.

5. No instance is mentioned of a slave having been forcibly compelled to return to his master, or punished for refusing to work: nor have I ever officially or otherwise, during a long period of service, heard of an instance in which an adult has been sold as a slave by one master to another.

6. Whatever the original Mahomedan or Hindoo law may have been on this subject,—I believe it to be an undeniable fact, that slaves in Western India are no longer property. I came to this conclusion from never having met with an instance, in which the right to a slave was disputed amongst members of families, who for every other inheritable or saleable portion of the ancestral property were at the most bitter discord.

7. Slavery in the sense which European nations apply to the term, certainly does not exist in Western India.

*Answer of Mr. W. Cowell, Judge of Bareilly, dated 17th March,* No. 119.  
*1836, to the Officiating Register to the Sudder Dewanny and*  
*Nizamut Adawlut, Allahabad.*

2. In reply to the first point, I beg leave to state that the legal right of masters over their slaves with regard to their *persons*, are much upon a par with those that are observed between master and servant: and as to property, I think there can be no doubt but that it is at the master's disposal, for "a slave cannot legally acquire or possess any species of property, although it be vested in him by his master"—vide Baillie's Mahomedan Law, p. 204.

3. Instances of cases embraced in the second point, so seldom occur; and none, to the best of my recollection, having been brought before me in my Judicial capacity, I am not able to offer any thing certain, or conclusive on the subject. But I am sure, that the indulgencies extended to Mogulman slaves, on complaints preferred by them of cruelty, or hard usage by their masters, are more liberal than what are extended to them by the Mahomedan law: according to which, "the ruling power has no right or authority to grant emancipation to slaves who are ill-treated

by their masters, and stinted in food"—vide Macnaghten's Principles and Precedents of Mahomedan Law, p. 317, Reply to question 4.

4. Regarding the third point, I know of no instances in which Magistrates have afforded less protection to slaves than to free persons against other wrong-doers than their masters.

5. On this point I beg leave to refer the Court for the authorities quoted, to Macnaghten's Hindu Law, v. 2. p. 274-5.

6. In reply to the 5th paragraph, I should consider the claim of a Mosulman master, over a Hindoo slave,—although illegal by the law of the former,—to be admissable by the Courts of Judicature, and *vice versa*, provided such slaves are treated with lenity and taken proper care of. And that this is generally the case, although few exceptions may occur to the contrary, I have every reason to believe; and am willing to acquiesce in the following opinion: "In India, between a slave and a free servant there is no distinction but in the name and in the superior indulgences enjoyed by the former: he is exempt from the common cares of providing for himself and family: his master has an obvious interest in treating him with lenity: and the easy performance of the ordinary household duties is all that is expected in return"—vide Macnaghten's Hindu Law, v. 1. p. 116.

If slaves by purchase from their parents, in time of scarcity, be allowed by the laws of nature to be right, I do not see why any claimant, other than a Mosulman or Hindoo, should be barred by our Courts from preferring their rights to the objects in question.

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No. 120. *Answer of Mr. W. J. Conolly, Magistrate of Bareilly, dated 9th December, 1835, to the Officiating Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Agra Presidency.*

2. In the absence of any other rules for my guidance, but those quoted in Mr. Millett's letter, I have, as far as my personal experience is concerned, been always accustomed to look upon the partial recognition, by the British Government, of the rights of masters over their slaves, as affecting the property, rather than the persons of the latter; and in this view, to consider any disputes arising from the relation, as belonging rather to the Civil than the Criminal Courts. I have had the records of this office searched for ten years back, but can find only two cases in this period, between the slaves and masters, relevant to the matter in question. One of these was for severe beating on the part of the master: and the second, a similar complaint of ill-treatment in which two slave girls absconded, and refused to return to their homes. In the first case, although the right of the master, (a Mussulman Nawab) to beat his slave at pleasure, was not formally recognized,—yet the situation of the slave seems to have operated with the Magistrate, as a bar against punishment; for nothing was done, although the beating inflicted was such as would certainly have been visited with a severe penalty in a case where both parties were freemen. The second case was one which came before me last year. The slave girls, who had runaway in consequence, as they said, of ill-treatment from their master, (a Mussulman of rank as in the other case) refusing to return, I declined

using coercion to oblige them to do so and amply provided for their future safety. In the present state of the law, so much doubt exists in regard to the whole subject, that each Magistrate must, in fact, act according to his own views and judgments; and in this way doubtless, much difference of proceeding will be found to exist in different Courts.

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*Answer of Mr. J. S. Clarke, Magistrate of Shahjehanpore, dated the 23d December, 1835, to the Officiating Register to the Courts of Sudder Dewanny and Nizamat Adawlut, Allahabad.*

2. During my experience as Magistrate, no case of the nature alluded to, namely, a complaint of ill-usage against a master, or demand of freedom on such account, on the part of a slave, either Mahomedan or Hindoo, has ever come officially before me. There can, I should think, be no doubt as to the course,—which would be pursued by the Court, and which I should certainly follow under such circumstances,—of affording the protection of the Law to its fullest extent to a slave equally with a freeman. Nor do I conceive from the spirit of the Regulations, that any distinction of persons could be recognized by the Magistrates, or that the right of legal redress is not equally open to all classes and castes of persons.

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*Answer of Mr. S. S. Brown, Magistrate, Zillah Sukenwan, dated 26th January, 1836, to the Commissioner of Circuit, Bareilly, Moradabad.*

1. The Magistrate's office in this district, has been too recently established to afford the information, founded on precedents relative to disputes between masters and their slaves, called for in your circular of the 20th ultimo, No. 88.

2. I find that in one instance, an application was made to the Joint Magistrate by a young girl requesting to be emancipated from the controul of a woman who forced her to lead the life of a prostitute and appropriated the gains; on which a summary order was passed allowing her freedom. This is, however, the only case on record.

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*Answer of Mr. E. J. Smith, Judge of Zillah Moradabad, dated 15th of January, 1836, to Officiating Register of Sudder Dewanny and Nizamut Adawlut, Allahabad.*

2. In reply to the 1st query, I have to state, that on reference to the records of the office, it does not appear that any case has ever been decided in this Court, in which the persons or property of any individual was claimed as appertaining to another in right of slavery. In the Criminal Court the claim of an individual to have a right over another, such person being his slave, is not recognized.

3. With reference to the 2nd query, my opinion is that in the event of a slave preferring a charge of ill-treatment and establishing the same against his master, the relation of master and slave would not be recognized as constituting a ground for mitigation of punishment. By the Mahomedan Law however,—though a person who should maltreat the slave of another would be liable to punishment, the same as in any other case,—in the event of a person killing, wounding, or ill-treating his own slave, a less degree of punishment would be awarded. He would not be subject to “*kissas*” or “*deut*”: but to *tazeer* and “*akoubt*,” at the discretion of the ruling power.

4. In answer to the 3rd query, I have to state, that I do not consider that a Magistrate would afford less protection to a slave than to a free person, or that in the higher Courts, the relation of master and slave would be admitted as grounds for a mitigation of punishment, in the event of a master wounding or killing his slave. The person so convicted would be punished I conceive in opposition to the Futwah, agreeably to the powers vested in the Judges of the Nizamut Adawlut by Section 4, Regulation XVII. 1817.

5. Notwithstanding that slavery may be said to meet with no countenance or support in these Courts, it is without doubt very prevalent. Hindoos are however seldom, if ever in the houses of Mahomedans, or Mahomedan slaves in those of Hindoos. I imagine also, that slaves are frequently worse fed and worse clothed than hired servants, from motives of parsimony in their masters. But I am not prepared to state that they are generally maltreated, and many instances doubtless occur, in which they meet with the greatest kindness and protection.

*Answer of Mr. W. Okeden, Magistrate of Zillah Moradabad, dated 30th November, 1835, to the Officiating Register to the Nizamut Adawlut, Allahabad.*

2. No legal rights of masters over their slaves with regard to their persons, are recognized in this Court; and I should afford the same protection to an individual styled a slave, as I would to a free person, should a complaint be preferred before me of maltreatment.

3. With regard to property, the slave, I should imagine, can have no claim to any inheritance from his master.

4. The only cases that come before this Court are those of slaves who are bought and reared for prostitution. Whenever these cases are brought before the Court, the owners of these are warned, that unless the girls return of their own free will they have no power to take them, and should force be used, they will be liable to punishment. The slave girls are also directed to leave all property of jewelry &c. for that must be considered the right of the master, however acquired, at the date of emancipation.

5. In these orders this Court has been guided by the Rules of the Joint Officers of the Nizamut Adawlut, communicated to the Bench of the Court on the 26th June, 1835, relative to the orders issued by the Magistrate of Ferozabad in the case of a female slave named Geyna.

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*Answer of Mr. R. Dick, Officiating Joint Magistrate, Kasipur, dated  
7th December, 1835, to the Commissioner of Circuit, Bareilly.*

No cases have ever occurred in this Court, involving disputes between masters and slaves, from which I could inform you of the practice of the Court. Had a complaint of severe ill usage been preferred by a slave against his master, I should undoubtedly have admitted and decided it as any other case; and in so doing have been guided by the principle, by which the Government abolished the exemption from Kisas allowed by Mahomedan Law. Nor would a slave receive less protection than another person against any wrong-doer, or be considered entitled to any immunities. Cases involving these points are however very rare. I have never met with one.

The question of the rights over the person and property of an individual, claimed as a slave, belongs exclusively to the Civil Courts; and consequently disputes in cases of the nature mentioned in the second paragraph of your circular, which have occasionally come before me, have always been referred to the Civil Courts,—the Criminal Court interfering no further than to prevent violence. The interference of a Magistrate to compel the return of a female, claimed as a slave for the purpose of prostitution, was severely admonished on by the Nizamut Adawlut.

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*Answer of Mr. H. Lushington, Magistrate of Bijnore, dated 17th  
December, 1835, to the Commissioner of Circuit, Moradabad.*

2. I have only found two cases in the record illustrative of the subject; and even these apply by inference only.

First: A complained that B kept his slave girl C from him. B replied that she was residing with his wife, who was related to A. The Court then passed a decree tacitly recognizing a right of property in slaves: for B was given to understand (in *humatidah*) that he should give her up. Subsequently, however, C appeared in



Court and expressed her willingness to remain with the defendant, she was "dismissed in company with" that person. The two orders appear to me somewhat inconsistent.

Secondly. A slave girl complained that her master had beaten her, but was unable to prove it. The master was bound over to keep the peace towards her. This argues that had she been able to prove her charge, the defendant would have been punished, and also that he was not at liberty for the future to assault her, more than any body else.

3. I have had very little experience as a Magistrate, and therefore you will not be surprised to hear that no case of the kind ever came before me in my official capacity. There are however slaves in the house of nearly every respectable person in the district, especially amongst the Mahomedans: and I have long ago proposed to myself the line of conduct which I should unhesitatingly pursue. In a word, I should not recognize slavery at all; and if the circumstances of any case which came before me were such as to render dangerous the uncompromising mode of proceeding I should report it for the orders of my official superior. Under no circumstances would I, of my own accord, be instrumental towards the degradation of the human species.

4. I may have been more candid, than prudent, in making this avowal in the very teeth of the law, Mahomedan, Hindoo and English, to which attention has been directed by the Law Commission. But I have little doubt the same answer will be made by a large majority of my cotemporaries. I consider it, like the rite of Suttee, to be an abomination, which only awaited increase of strength on the part of the rulers, or of sense on the part of the ruled, to be abolished for ever. Nor did I err in supposing that it would be one of the first subjects to which the attention of the Law Commission would be directed. As I would have prevented a Suttee, though yet legal, by every means at my disposal short of actual compulsion; so should I now consider it my duty, as far as do in me lay, to withhold the sanction of Government to the existence of slavery.

5. Previous to writing the above remarks, I made careful enquiries from several very respectable residents of North Moradabad, both Mahomedan and Hindoo: the result is the conviction, that they would not as a body feel disgusted at the interference of the Magistrate between themselves and their slaves; nor would they consider a refusal to recognize slavery at all, as any serious infraction of their legal rights.

No. 127, *Answer of Mr. J. R. Hutchinson, Commissioner of Circuit, 1st Division, dated 11th February, 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad.*

1. By the practice of our Courts, the right of the master over the slave, as far as services are concerned,—is fully recognized, as also the property, or title, to sell land or mortgage his service and property acquired by the slave becomes that of the master.

## APPENDIX II.

2 and 3. Our Courts do not recognize any relation of master and slave as justifying acts, which would otherwise be punishable. Nor do they allow the relation in mitigation of punishment; in fact it has no practical operation different from that of master and servant. The complaints of a slave, (Hindoo or Mussulman) against his master for ill-treatment are heard and determined precisely as others, and he receives the same protection, under the provisions of the general Regulations for the administration of criminal justice.

4. In respect to this question, I suppose,—on the general principle of slavery being illegal, except under the Mussulman and Hindoo laws,—the Courts would not admit the claims of any but Mussulman and Hindoo claimants: but in disposing of them, I do not think the caste or persuasion of the defendant would be attended to,—provided he was not a British or foreign European subject. In claims preferred by a Mussulman master against a Hindoo and *vice versa*, the law of the claimant would be acted upon.

*Answer of Mr. G. W. Bacon, Officiating Civil and Session Judge, Zillah Sarunpore, dated 7th January, 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad.*

In this Zillah, slavery is unknown, or if existing is so concealed, or exists to such a very trifling extent, that in my own personal experience I have never met with a case. Nor can I recollect even a single instance of a slave complaining against his master, or *vice versa*, in any of the districts in which I have had the honor to serve.

As the intricacies of Mahomedan and Hindu laws have been unravelled by abler hands than mine, I conclude the Court do not wish for a mere opinion on the subject of slavery. I therefore do not reply to the Law Commissioners' letter *seriatim*. By the existing regulations, with reference to paragraph 5th of the Law Commissioners' letter of the 10th October last, I should say that, the case of slavery, therein supposed, ought immediately to be dismissed.

*Answer of Mr. T. Louis, Acting Magistrate of Zillah Saharunpore, dated 19th January, 1836, to the Officiating Register Sudder Dewanny and Nizamut Adawlut, Allahabad.*

I beg leave to inform you, that I do not recollect that I have ever had occasion to take cognizance of a single case of the nature of those, alluded to by Mr. Millett; in which the parties were a master and his slave: and I think that the latter are generally in this part of the country so well treated by their owners, as to render any recourse to the Magistrate very uncommon, if such a circumstance has ever occurred. In case of any act of cruelty however towards a slave, being substantiated

against either a Hindoo or Mussulman master, I should consider myself bound by the principles of equity and justice,—which serve to guide our decisions, where the Regulations are not sufficiently explicit,—to inflict the usual punishment awarded to such an act, without any consideration for the rights, the defendant might urge that he possessed over the person of the plaintiff or his property.

No. 180. *Answer of Mr. E. F. Franco, Magistrate of Mozuffurnugger, dated 28th November, 1835, to the Officiating Register to the Court of Nizamut Adawlut, Allahabad.*

2. With reference to the 1st query of the Commissioners, I beg to observe, that both Hindoo and Mahomedan masters undoubtedly possess legal rights,—over the persons of their slaves, as far as affects their liberty and services,—and over their property unconditionally; but the masters are in no ways allowed to maltreat their slaves.

3. Our Courts certainly do not recognize as justifiable, any acts of masters towards their slaves, unconnected with their liberty or services, which would otherwise be punishable by law: nor should I consider, that the relation between the parties would absolve the master from punishment, in any case of maltreatment or oppression;—although, in a case of lenient and summary correction inflicted on the slave for a fault, I might not be induced to view the matter precisely in the same light, as I should, were a person unconnected with the defendant to be the subject of the chastisement awarded.

4. A sentence of fine or imprisonment would be consequent on the conviction of a master, who was proved to be guilty of oppression towards his slave; and it would probably be necessary to bind the former, in a pecuniary penalty or by sureties, to behave in future with greater leniency to his defendant.

5. The indulgence, granted by the Mahomedan law in Criminal matters to Mussulman slaves, would not I imagine under any circumstances be allowed by our Courts: but the slaves could in all instances be dealt with, in the same manner as other delinquents.

6. In any case of a complaint by a slave against any other person than his master, the same protection and aid would indubitably be afforded, as would be extended to a free person of any class whatsoever. The slaves, either Mussulman or Hindoo, are not without the pale of the law, and they would always be treated in our Courts as the subjects of the Government of the country. They would never be allowed to be oppressed; and their case would inevitably find an interest in the breast of a British Functionary.

7. I am not aware, of any law, nor of any principle,—save the broad one arising from our common feelings of humanity and justice—by which the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence, cognizable by the Criminal Courts; but it assuredly would be so considered, notwithstanding the unlimited power, which may be said by the Hindoo law to be vested in the Hindoo proprietor, over his slave of the same persuasion.

8. With reference to Section 9, Regulation VII. of 1832, the Courts would be guided in their judgment, to support or dismiss the claims of a Mussulman

master over a Hindoo slave, and vice versa, equally by the laws and customs of the tenets of their respective faiths; and it, therefore, being contrary to the Mahomedan law that a Mussulman should possess a Hindoo slave, the claim of the former to the latter would at once be thrown out.

9. In conclusion, I beg to add that no claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo claimant, would ever be admitted or allowed.

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*Answer of Mr. R. C. Glyn, Officiating Judge, Zillah Meerut, dated No. 131.  
10th February, 1836, to the Officiating Register Sudder Dewanny  
and Nizamut Adawlut, Allahabad.*

2. With respect to the first query in Mr. Secretary Millett's letter, I beg to state that no legal right of masters, over the persons and property of their slaves, is recognized by the Court, but if the slave dies, the charge of his family and effects belongs to the master.

3. In reply to the 2d, 3d, 4th and 5th queries, I have only to observe, that in administering criminal justice there is no respect of persons, whether masters or slaves,—the law being dealt out in all such cases according to the crime established, without regard to the relative position of the parties. But there is no instance on the records of this office of a slave complaining against his master, nor of a master against his slave. The practice of the Criminal Courts, being usually to release the slave from bondage, operates to prevent such kind of disputes being brought before them. Neither is there any instance of a suit for possession or service of a slave on the part of a Mussulman or Hindoo, such sort of claims being kept out of the Civil Courts for the like reason.

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*Answer of Mr. N. C. Hamilton, Officiating Magistrate, Zillah Meerut, dated 4th of January, 1836, to the Officiating Register to the Nizamut Adawlut, Allahabad. No. 132.*

I beg to state that, no case involving the rights of a master over a slave, or the relation of one to the other, has come before me during the period I have been in charge of this Magistracy: neither can I find in the records of the office any proceedings by which a rule of conduct could be said to be laid down.

No. 183.

*Answer of Mr. M. H. Tierney, Magistrate, Zillah Bolundshehur, dated 5th of February, 1836, to the Officiating Register Nizamut Adawlut, Allahabad.*

I have the honor to submit such observations on the subject, as my own official experience and the records of this office enable me to make.

2. In answer to the enquiry, as to what legal rights masters are recognized by our Courts as possessing over the persons and property of their slaves,—the records of this office furnish but few cases of disputes, strictly of the nature inferred in this enquiry. Applications have been made for the reapprehension of slaves, who have absconded, on the plea of their having carried away with them articles the property of their masters; and in such cases, orders have been issued to the Police to assist in their apprehension.

The slave has in these instances, either returned or has been apprehended and restored to his master,—without further enquiry or complaint on the part of either master or slave.

From the circumstance of these applications being invariably accompanied with the charge of theft on the part of the slave, I should infer, that masters consider such charge necessary to induce the interference of the Magistrate, and that the sole plea of ownership would not be recognized by our Courts.

4. In addition to the notice of the construction of Regulation IV. of 1793, and Regulation X. of 1811, as noted in the 5th paragraph of Mr. Secretary Millett's letter, I observe that the Nizamut Adawlut, in their Circular Order to the Courts of Circuit dated the 5th October, 1814, (page 109 of volume 1 of Nizamut Adawlut Circulars) construe the provisions of Regulation X. of 1811, as inapplicable to cases of the sale of slaves not imported by sea or land into our Territories,—at the same time recognizing as legal, the acts noticed in the 2d paragraph of the Superintendent of Police for the Western Provinces' letter dated 19th July, 1814, addressed to them on the subject.

5. Thus, as the law at present stands it is evident,—that claims to the person, property, and service of slaves born within our Territories, are admissible,—and that the decisions, which have been made in this Court, as well as others, rejecting such claims, are arbitrary and illegal.

6. In answer to the 2d question of Mr. Millett's letter,—it has not been the practice of this Court to recognize the relation of master and slave, as justifying acts otherwise punishable, or mitigating the punishment awardable for such acts. In one or two cases I find that, slaves, complaining of the oppression of their masters, have been declared to be free.

The subjoined extract from the Hidayah, would seem in some measure to justify the manumission of the slave who is oppressed by his master.

"Masters are enjoined, to feed and clothe, as they would themselves, their slaves. Should they neglect to do so, and the slave be capable of earning his livelihood by his own labour, he shall be entitled to do so. But the surplus profits of his labour, after his feeding and clothing shall be the property of his master and if he be from infirmity or other cause unable to labour, the ruler of the country may compel the master to sell him to others who will provide for him, and if no purchaser be found, he shall manumit the slave."

From the last clause of the Section a maintenance (Hidayah.)

7. In reply to the third question, I beg to state there are no cases on record in this office, of the class therein alluded to: the practice of this Court is to be inferred from what has been above stated; and in no case would less protection be afforded to the slave than to the free man.

8. In answer to the 4th question, enquiring by what principle or law the maltreatment of a Hindoo slave by his Hindoo master,\* I answer that such cases would be tried under the general Regulations, and treated,—in minor instances as a misdemeanour,—and in severer cases as cognizable under the same Regulations by the Court of Session.

9. The 5th question, referring principally to the practice of the Civil Courts, does not appear to require any reply from this office, and the several claims therein noted if made before a Magistrate, would no doubt be dismissed and referred to the Civil Courts.

*Answer of Mr. T. Metcalfe, Commissioner of Delhi, dated 22d No. 134.  
December, 1835, to the Register to the Sudder Dewanny and  
Nizamut Adawlut, Allahabad.*

The right of a master over a slave, or his property, has not been acknowledged in this territory, and no act of cruelty or oppression, would be justified by such plea, or lead to the mitigation of punishment due to the offender.

The complaint of a slave for ill-treatment, would meet precisely with the same attention, as that of a servant, or any other person, and we should in no way be guided by the doctrines of the Mahomedan law.

No distinction being admitted in our Courts between slave and free man, a complaint, against whomsoever preferred, would meet with the same consideration.

The maltreatment of an Hindoo slave, would be cognizable in our Criminal Courts, on the principle of equal justice to all: for as in this territory, the legal claim of the master to enforce servitude, is not acknowledged: he can possess no right to injure or maltreat the slave.

In the event of a Civil suit, being instituted by a Mahomedan master against Hindoo slave, or Hindoo master against a Mahomedan slave, a decision would not be passed with reference to the laws of their religions, but as directed by Regulation VII. 1832, on the principles of justice, equity, and good conscience.

2. Since the promulgation in this territory, of the law prohibiting slavery, we have not even recognized possession as a claim; and though I do not at this present moment recollect any instance of a male slave petitioning for emancipation, I have known very many applications from the unfortunate class of females purchased for the purposes of prostitution, and in every case the applicants were absolved from any further compulsory servitude,—the mistress being referred to Civil Court to obtain compensation for any expense, incurred for food, clothing, jewels, etc.

3. In the year 1838, the Government humanely interfered, to rescue from slavery, two females who succeeded in effecting their escape from the Palacs at

• One of the Princess.

Delhee and threw themselves on the protection of the Magistrate. Every exertion was made by the owner,\* backed by strong remonstrances from His Majesty the King of Delhee, and even by the recommendation of the then Resident, to procure their restitution; but they were nevertheless eventually emancipated by the express directions of the Right Hon'ble the Governor General in Council.

No. 135.

*Answer of Mr. H. Fraser, Judge of Delhi, dated 5th February, 1836, to the Officiating Register Sudder Dewanny Adawlut, Allahabad.*

2. In the Courts over which I have authority, it does not appear that during the last twenty-five years any case has been decided in which a slave was a party concerned. About the year 1811, some orders on the subject of slavery were issued by the then Chief Civil authority at Delhi. The precise nature of these orders I am now unable to state, a copy of them not being procurable; but I have reason to believe that, they went far to remove all invidious distinctions between master and slave, and that the Courts in the Delhi Territory, which have probably been guided in their decisions by the orders in question, have not for many years, so far as I am aware, recognized any right or immunity, beyond that of service, to attach to the one, which did not in an equal degree belong to the other.

No. 136.

*Answer of Mr. S. W. Truscott, Magistrate Centre Division, Delhi, dated 8th February, 1836, to the Officiating Register Nizamut Adawlut, Allahabad.*

• Answer to the 1st question.

Though\* the Hindu and Mahomedan law officers of Delhi are of opinion, that masters have absolute authority over the persons and property of their slaves, yet in practice no legal rights of this nature have been recognized either in the Civil or Criminal Courts of Delhi.

Answer to the 2d question.  
Ditto.

I cannot find a case, in point, among the Criminal Records of this office.

From a statement prepared in my office, I find that since 1820, sixty-three suits have been instituted in the Magistrate's office by male and female slaves, particularly the latter against their owners for maltreatment, and in accordance with the prayer of their petitions they were invariably emancipated. The minor offences of slaves, would seldom be brought to the notice of the Court, as their masters would be unwilling to risk the loss of their services, and I am not aware that the Courts would grant any indulgence to a slave, charged with a serious Criminal offence, merely from a consideration of his being a slave.

Answer to the 3d question.

I can find no such case, on record in this office, nor am I aware that the Courts would afford less protection to slaves than to free persons under such circumstances.

2. The questions proposed in Section 5 of Mr. Millatt's letter, having reference solely to the practice of the Civil Courts,—I do not feel myself competent to reply to them; and the answers which I obtained from the Principal Sudder Aumeen and the Hindoo and Mahomedan Sudder Aumeens of Delhi, are so very contradictory that I find it difficult to draw any satisfactory conclusions from them. I am however decidedly of opinion, that the purchase and sale of slaves in British India is rapidly on the decline, and, that if the penal provisions of Clause 2, Section II, Regulation III of 1832, were at once extended generally to the purchase and sale of slaves, the practice would very soon cease altogether in our Territories, and the vile race of pimps, prostitutes and eunuchs who now infest our large towns would in another quarter of a century become extinct. An additional clause, declaring all the children born of slaves after the date of its promulgation free, would in like manner, without infringing too suddenly on the rights of the present proprietors, lay the foundation for the gradual, but sure extinction of slavery in India. Whereas any attempt to regulate or ameliorate, by legislation the slavery as it now exists in India, will, in my humble opinion, inevitably tend to increase the evil, and render any future attempt to abolish it exceedingly difficult; and, as in the case of the West India slavery, very expensive.

*Answer of Mr. C. Gubbins, Officiating Magistrate of Goorgong, dated 27th November, 1835, to the Officiating Register Sudder Dewanny and Nizamut Adawlut, Allahabad.* No. 157.

I have the honor to inform you, that the practice of this Court has been, as far as I can discover, to recognize no right of one man over another, except in the relation of master and servant.

I have myself invariably considered, that the object and intent, of the different Regulations enacted regarding the importation and selling of slaves, were the gradual abolition of slavery throughout the Company's territories,—allowing at the same time all persons, who had slaves in their possession at the time of annexation of territory, to keep them unmolested; and I should consider myself bound, to declare any young person free, who should complain in the Magistrate's Court, on the grounds that whoever would prove his right of possession must necessarily render himself either liable to be punished for importing or buying the slave,—premising that no person can be a slave by birth.

No case comes within my recollection, where a slave has complained of ill-treatment against his master in this Court. Should such a case arise, unless the treatment complained of were decidedly beyond a moderate correction, I should dismiss it on the ground that, as long as the man or woman chose to remain as a slave in the house of its master, it had thereby voluntarily subjected itself to correction at its master's direction.

Should the case be one of maiming or endangering the life of a slave, I should consider myself competent to take cognizance of it, according to the Regulations in force for freeman. Slaves escaping from foreign territories have invariably been



declared free, and no claim on them has been considered valid, whether it be a Hindoo over a Hindoo, a Mussulman over a Mussulman, a Hindoo over a Mussulman, or vice versa: and several cases of this nature have been thus decided.

I have the honor to annex a statement, including all cases of this nature, which have come under the cognizance of the Goorgong Magistrate.

No. of Cases.	When brought forward.	Plaintiff.	Defendant.	Crimt.	Date of Decision and Order.
1	26th April, 1828.	Mussamut Meena.	Mussamut Shezadee.	Ill-treatment.	The Plaintiff not being purchased by the Defendant, she was made free on the 26th April, 1828.
2	21st July, 1828.	Mussamut Douletabadee.	Mussamut Jumna.	Ditto.	The Plaintiff was made free on the 29th July, 1829.
3	11th June, 1831.	Mussamut Asoorun.	Mussamut Amerbuksh.	Ditto.	Ditto Ditto on the 11th June, 1831.
4	29th Dec. 1831.	Gopal Singh of Bullungurh.	Mussamut Keereembuksh.	Making her escape from the house of the defendant with jewels.	The Plaintiff having denied that she was not a slave, therefore she was made free on the 29th December 1831.
5	24th Jany. 1834.	Mussamut Jooggun.	Mussamut Moothee.	Ill-treatment.	The Plaintiff was made free on the 25th January, 1834.
6	11th Sep. 1834.	Mussamut Lado.	Mother of the Plaintiff.	To be made free.	The Plaintiff was made free on the 11th of September 1834.
7	12th June, 1835.	Mussamut Fyzleuksh.	Mussamut Sheedhee.	Ditto in consequence of ill-treatment.	The Plaintiff was made free on the 31st July, 1835.

No. 136. *Answer of Mr. A. Fraser, Magistrate Rohtuk Division, Delhie Territory, dated 27th January, 1836, to the Officiating Register Allahabad Sudder Dewanny Adawlut.*

I have the honor to remark, that in no instance, has any case, to the best of my knowledge, come before this Court involving any of the questions propounded in that Circular. It may be said indeed, that slavery is unknown in this district,—save by name and only in this respect in a very limited degree. In some of the Mussulman communities, there exists a class of people denominated Gholams, the signification of which now, would seem to denote that the class so designated is in a state of slavery. But this does not practically hold true. These people are not in a state of servitude; and no rights, to the best of my knowledge, are claimed over them, which place them on any other legal footing, than that on which stand the other inhabitants of the district.

On the general question, I possess no such knowledge as could induce me to suppose that my remarks would be useful. I refrain, therefore, from unprofitably occupying the time of your Court.

*Answer of Mr. J. Lawrence, Officiating Magistrate, Zillah Paniput, No. 139,  
dated 30th November, 1835, to the Officiating Register to the  
Courts of Sudder Dewanny and Nizamut Adawlut, Allahabad.*

A master,\* in my opinion, possesses no legal right over a slave, or his property : and no Court would recognize the relation of master and slave as justifying acts of cruelty, or constituting grounds for mitigating the punishment due to them.

To questions 1 and 2.

A slave,\* on complaining of ill-treatment, would receive the protection which a menial servant is entitled to. In fact, in every respect, I should consider them on footing of perfect equality and possessing equal rights. This being my opinion, the latter part of the question does not require an answer.

To question 3.

None!\* This question is fully answered above.

To question 4.

I am\* not aware of any Law or Regulation, specifically affording redress to a slave, as distinguished from a freeman, nor do I deem any necessary. It would be sufficient for me that no Regulation recognizes that right of a master over a slave, and that such a claim is contrary to every principle of our Regulations. It would, therefore, in my opinion, acquire no specific Regulation to give a slave redress; but I should require the master to point out a specific law, before I would consider any one his slave. I would say to the master, who put in the plea of slavery as justification of his treatment,—“First show me the Regulation which makes that man your slave. Until you can do so, he is, in my eyes, a freeman.”

To question 5.

Regulation X. of 1811, declares the importation of slaves illegal. Its preamble says that “the importation and traffic in slaves is inconsistent with humanity, and the principles by which the administration of the country is conducted.” If importation, if traffic, is illegal and punishable, I do not think it a very forced construction, to conclude that the possessing one is equally unlawful by this Regulation, independent of common principles of equity. The slave, therefore, is entitled, and would receive from me, redress for any injury,—no matter from whom received.

I should\* say “certainly not.” In the first place, the section here quoted runs thus ;—“The law is designed for the protection of rights of persons, not for the deprivation of those of others ;—that the Mussulman or Hindoo Law, shall not be permitted to deprive parties of any property, to which, but for the operation of such laws, they would be entitled :—that the decision should be governed on the principles of justice, equity and good conscience.” For all, or any of, these reasons, I think that no Court would recognize any such claim of either Mussulman or Hindoo. To do so, would be to deprive a man of what is better than any property,—which is dearer than any other right,—that of freedom. It would be opposed to the plain intent of the first and second paras. above quoted, and lastly, it would be clearly contrary to every principle of justice, equity, and good conscience. I need not add, that such being my interpretation of the law, I would dismiss similar claim of any other person, no matter what might be his religion. Few cases of slavery ever occur in these districts. The population is entirely agricultural, and among them the practice is unknown. In the City of Dehlee and in all the surrounding independent States, especially where the Chiefs are Mussulman, it is more common. It is chiefly females

To question 6.

\* See Letter from Law Commission No. 1.

who are stolen or purchased in Rajpootana and brought to Dehlee for prostitution. In some cases of Thuggee, which I have seen, the murders were perpetrated merely for the children; some of whom were sold in the City the same day. When serving as an Assistant, at Dehlee, I have frequently seen cases of women, who had escaped out of the palace, coming to the Court for protection, which was invariably afforded them: and, I believe, there was an order to this effect, consequent on a reference, from Government. Two cases only I can now recall to memory, bearing exactly on this subject. The one was of brutal ill-treatment which I witnessed, when riding through the City one day. I really believe, if I had not interfered at the moment, the unfortunate man would have been severely injured. The master next day pleaded, in extenuation of his conduct, that the victim was his slave. I did not punish him, as the man declined to prosecute; but I bound the master down to keep the peace for the future. The other was a case, in which a Kitmutgar prosecuted a Nuwab for arrears of wages. The defendant asserted and proved that the man was his slave, born in his house. I set this defence aside on the ground, that I could not, under any Regulation, recognize the relation of master and slave and decreed the plaintiff the amount of his arrears.

*Letter of Mr. J. Lawrence, dated 21st October, 1835, in continuation of above.*

In continuation of my letter to your address, under date the 30th ultimo, regarding the system of slavery in the country and the practice of this Court in cases brought before it,—I beg to remark that Regulation III. of 1832,—of which when writing my letter, I was not acquainted, in declaring that all slaves imported into British territory, subsequent to the year 1811, being a period of no less than 25 years,—would certainly be decisive against the claims of masters in the greater number of cases.

No. 140. *Answer of Mr. M. R. Gubbins, Officiating Magistrate, Hurrianak Division, dated 12th December, 1835, to the Officiating Register Sudder Dewanny and Nizamut Adawlut, Allahabad.*

2. That in this division of the Dehlee Territory, the relation of master and slave is scarcely known: and that a careful examination of the records of this office has failed to shew that any case of this nature was ever brought into the Magistrate's Court, in which a right of property in the person of another was claimed by any individual subject to our Government.

3. The population of this district may be divided into three great classes, viz. *Jants*, *Bhuttees*, and *Rajpoots*. Among the two former, I have never even heard, that the relation of master and slave existed. In the latter, I am aware that it does prevail, but to a very limited extent. The people, however, are conscious that this relation is not admitted by our courts. Where, therefore, *slavery* does exist, it is in so limited a sense, that the slave would be more properly termed a household servant, who receives from his master food and clothing, instead of wages.

4. The relation of master and slave has, indeed, never been acknowledged by this Court; and this principle has been carried so far, that the claims of subjects

of the adjoining Sikh States, who have occasionally applied for the restoration of slaves escaped from them into the British Territory, have been similarly rejected, it being held that though in servitude before, these became enfranchised by a residence in the British Territory.

5. The records of this office affording no precedents, from which its general practice regarding the several cases noticed in the Secretary Indian Law Commissioners' letter might be inferred, I regret, that I am unable to afford the answers required. I must, however, state my opinion that no distinction of freeman, or slave, has ever, or would now be allowed by the practice of this Court; nor have any special rights arising from either relations ever been upheld, or acknowledged. In coming to this opinion, I have been guided by my own experience in the division by the common understanding of the people at large on the subject, as well as by the judgment and experience of the Native Sudder Ameen (a Mussulman,) long a resident in this zillah.

*From the Secretary Law Commission, dated 5th April, 1839, to the* No. 141.  
*Judge of Zillah Cuttack.*

I am directed by the Indian Law Commissioners to request the favor of your informing them whether it is or has ever been the practice of your own and of your subordinate Courts to authorize the sale of slaves by public auction in satisfaction of decrees of Court.

2. They learn from evidence taken before them on the subject of slavery in Cuttack, that on one occasion a judgment creditor included slaves in the schedule of his debtor's property, for the attachment and sale of which he moved the Court; but that on the debtor objecting to that proceeding, Mr. Pigou, then Judge of the District, directed the slaves to be struck out of the schedule on the ground that they were not a fit subject for sale. It would be satisfactory to the Commissioners to have specific information respecting this particular case, if it can be traced without much trouble.

*Answer of Mr. H. V. Hathorn, Officiating Judge, Zillah Cuttack,* No. 142.  
*dated 1st May, 1839.*

In reply to your letter No. 193 dated 5th ultimo, I have the honor to state that it would not appear to have been the practice in the Courts of Cuttack to authorize the sale by public auction of slaves in execution of decrees of Court.

2. I regret that I have been unable to trace the suit alluded to in your letter in which Mr. Pigou, in his capacity of Judge of the District, is said to have struck out from a schedule of property certain slaves proposed for attachment and sale.

3. I have however on further search discovered one case as described in the margin which was instituted, when Mr. Ricketts was Officiating Judge, and decided in Mr. Pigou's time—in this case the decree was passed by the lower Court

Court of Sudder Ameen  
Zillah Cuttack.  
No. 10543.  
Sreeputty Pundab, Plaintiff,  
versus  
Purmesaur Mahapatra]  
Beegepur Pundab.  
Peetchuce Mullick }  
Lab Mullick }  
Aruth Mullick }  
Claim—For possession of  
three slaves, valued at  
thirty rupees.  
Suit instituted, 23d Jan. 1828,  
Decided 20th April, 1829.

awarding the proprietary right in three slaves. It is to be remarked however that in the execution of this decree no order was issued (although applied for) for giving actual possession of the slaves. "The Hukumnamah" merely contains an order for the payment of the costs of suit, and this omission is not in any way explained.

No. 143. *From the Secretary Law Commission, dated 5th April, 1839, to the Magistrate of Cuttack.*

From evidence taken before them on the subject of slavery in Cuttack the Law Commissioners understand that a proclamation was issued by Mr. Robert Ker, whilst Commissioner of the District, declaring the sale of slaves illegal. The immediate cause of that measure is stated to have been an appeal preferred to the Commissioner by a slave, who on being sold by his original owner to a person he was unwilling to serve, had applied unsuccessfully to the Magistrate for protection against the coercive proceedings of the purchaser; and the result of the appeal appears to have been that the slave was enfranchised, and the purchaser subjected to a fine.

2. The Law Commissioners are desirous of examining the proclamation in question, as well as the proceedings both of the Magistrate and Commissioner in the particular case which gave rise to it, and I am therefore directed to convey to you their request that you will favor them with copies of the above documents at your earliest convenience.

3. From the same source the Law Commissioners further learn that on the occasion of a complaint preferred by a slave, Mr. W. Forrester, then Magistrate of the District, declared a deed of sale of a slave unlawful, imposed a fine on the purchaser, awarded costs to the slave, and referred the purchaser to the Civil Court for the recovery of the purchase money from the vender. The Commissioners would be obliged by your furnishing them with a copy of these proceedings also, if the case can be traced without much trouble. They regret that they cannot supply any particulars of date or of the names of the parties.

No. 144. *From the Magistrate of Zillah Cuttack, dated 19th June, 1839, to the Secretary to the Indian Law Commissioners, Fort William.*

In reply to your letter of the 5th of April last, I regret to state that after the most particular search in my record office, I cannot discover the proclamation or decision alluded to by you. I however forward two\* proceedings. The first dated

\* The enclosures of his letter are two.

1.—The decision passed by Mr. W. FORRESTER, the Magistrate of Zillah Cuttack, on the 31st of January, 1822, on the prosecution of FAKIR DAS, HERA DAS and MAJUMAT GOOMA, prostitute, were charged with selling prosecutor's sister. Mr. FORRESTER acquitted both prisoners and made over the girl to prosecutor. He remarked that a "person of the same class, to whom prosecutor had entrusted his sister to be nourished, made her over to SULHA for that purpose. She made her over to HERA DAS who transferred her to a Brahmini. She again made her over to the sister of GOOMA, prostitute. Even the offence of selling, or in any other way that of the abduction of his sister, from prosecutor's house, is not proved."

the 31st January, 1822, acquits the defendants Heera Das and Gooma prostitute, of selling Mosummat Dhurnee, the sister of Fukeer Das plaintiff; the second proceeding dated the 8th of June of the same year, convicts Puddi defendant of stealing and selling, Oholia, the daughter of the plaintiff Bugwan Das, and sentences him to six months' imprisonment with labour in irons.

2. These two cases prove, I think, the practice of the Courts to have been, to punish all persons convicted of selling *free born* individuals as slaves. In this district there is a class of serfs, who pay no rent to the proprietor on whose lands they reside, but are liable to be called on to work for their owners, only receiving food. They are permitted to enter the service of other individuals; but pay a portion of their savings to their master. The share to be paid is not fixed; it is given in the shape of a present. These people are sold frequently, I am given to understand: but such sales are not recognised by the Criminal Courts. Whenever, any person sold, has presented a petition of objection it has always been the practice to disallow the sale, and to permit him to go where he pleased;—so that transfers can only be considered binding when all parties consent.

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*From the Secretary Indian Law Commission to the Magistrate of the Northern Division of Cuttack Balasore, dated 5th of April, 1839.* No. 143.

Mr. Ricketts, late Commissioner of Cuttack, having stated, in his evidence before the Law Commission on the subject of slavery in Cuttack, that in the year 1829-30 a census was taken by him of the slave population of Chukla Budruk, and subsequently, in 1831 or 1832, of the entire population of the Balasore Division; and that the Official Statements of the same are deposited in your office; I am directed to convey to you the request of the Law Commissioners, that you will favor them with copies of those Statements at your earliest convenience, or with an abridged analysis of them, if too voluminous to be readily transcribed.

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*Answer of Mr. Edward Repton, Magistrate, Balasore, dated 7th May, 1839, to the Secretary to the Indian Law Commissioners, Calcutta.* No. 146.

2. Some delay has taken place in replying to it, as I have been obliged to make an abstract of a mass of papers, sent in by the Mofussil officers employed by Mr. Ricketts. The total number, as shewn by the papers of my office, is of men, women and children, six hundred and seventeen thousand six hundred and thirteen. This was the result of the enquiries instituted after the storms. Since then, an area paying upwards of thirty thousand rupees has been added, and I calculate its population at forty or fifty thousand.

II.—The other enclosure is the decision passed on the 8th June, 1822, by Mr. W. FORRESTER, the Magistrate of the Zillah Cuttack, on the prosecution of BUGWAN DAS v. RUTTAN PAIK, PUDYA and others. PUDYA who was charged with having stolen the daughter aged seven years, of prosecutor his master, and selling her to RUTTAN PAIK, was convicted on his own confession. The others were charged with being accessory, but released for defect of proof.

3. In forwarding the returns to you some time ago, I stated the population at five millions, and did so with the knowledge of Mr. Ricketts. He estimated that of Balasore, at four hundred and fifty thousand; to which I added the abovementioned annexation from Midnapore. The census which I had made by the Police gives four hundred and sixty-two thousand inhabitants of the Zillah. I consider the former papers in my office, as far as they relate to the Bhudruck Chucklah, quite incorrect. It is impossible there can be three hundred sixty-five thousand and sixty-six in that thannah. My Police state the number to be two hundred and twenty-five thousand four hundred and fifty-eight. A memorandum of the slaves is herewith sent.

*Statement showing the number of persons in the Zillah of Balasore, according to the papers filed in the Collector's Office after the storms.*

Balasore Chucklah, .....	2,52,547
Bhudruck Chucklah, .....	3,65,066
Total,.....	<u>6,17,613</u>

One slave to seventy-seven free or 1.3. per cent.

(Signed) EDWARD REPTON, *Magistrate.*

BALASORE MAGISTRATE'S OFFICE, }  
The 7th May, 1839. }

*List of Slaves in the Pergunnahs of Bhudruck Chucklah, also of individuals having no houses and no visible means of support.*

Names of Pergunnah.	No. of Slaves.	No. of men having no houses or means of support.	
Arraroopea, .....	2	151	
Killah Ambohutta, .....	0	313	
Agas, .....	545	69	
Byang, .....	833	43	
Baulkund, .....	76	422	
Tuppa Pursondo, .....	0	656	
Soso, .....	359	280	
Dhamnuggur,.....	894	82	
Raudea Orgurra, .....	296	700	
Sumawutt, .....	1535	89	
Dolegram, .....	2013	10	
Katia, .....	1469	73	
Tuppa Malunch, .....	0	125	
Total,.....	8022	3013	11035

(Signed) EDWARD REPTON, *Magistrate.*

BALASORE MAGISTRATE'S OFFICE, }  
The 7th May, 1839. }

*From Secretary Law Commission to the Judges of Zillah Behar, Patna and Shahabad, dated 7th November, 1839.* No. 147.

The Law Commissioners have examined several individuals in regard to the state of slaves in different parts of the country, and the usages, by which they are affected. One individual has stated, that in your district slaves were formerly sold, in satisfaction of judgments against their masters.

2. The Law Commissioners request the favor of information, as to whether resort has been had to this class of judicial sale, formerly or at present, and in what degree of frequency; and if such recourse is no longer practised, the cause of the desuetude.

3. The Law Commissioners are rather anxious for an early reply, than for detailed and exact information; which must be necessarily preceded by enquiry and research. I am directed, therefore, to solicit such general information on this subject, as your own knowledge, or that of the officers longest attached to your Court, may be able to supply with as little delay as possible.

*Answer of Mr. C. T. Davidson, Officiating Judge, Zillah Behar, dated 13th December, 1839, to the Secretary of the Indian Law Commissioners, Fort William.* No. 148.

2. I have made inquiry, if the practice of selling slaves, in satisfaction of decrees against their masters, ever prevailed in this Court. I required also all the Judicial officers subordinate to this Court, to institute similar inquiry in their own offices. The returns have been received by me: and it appears that no instance of the sale of slaves for judgments against their masters has ever occurred.

*Answer of Mr. John French, Judge of Zillah Shahabad, dated 27th December, 1839, to the Secretary of the Indian Law Commission, Calcutta.* No. 149.

I have the honor to acknowledge the receipt of your letter, under date the 7th November last, and beg to inform you, that from the reports of the several Ameens and Moonsiffs, and the Kyfeut of the Mahafizduster of this Court, it does not appear that the practice of selling slaves in satisfaction of judgments against their master, has occurred in this district.









## MUSSUMMAUT CHUTROO, Appellant.

1822.

March 28th.

*versus*

## MUSSUMMAUT JUSSA, Respondent.

No. 1.

The Respondent, Jussa, was plaintiff in an action brought against Chutroo in the City of Benares, on the 2d of December 1815, for the recovery of 1,400 Rupees, on account of a monthly allowance due agreeably to a written engagement. The defendant suffered judgment to go by default. On the 24th of February 1818, the Register of that Court dismissed the suit of the plaintiff on the following grounds :

The suit appeared to be founded on the plea, that the defendant had been entirely brought up and educated by the plaintiff. The defendant leaving her and going to live with Baboo Surub Jeet Sing, the plaintiff preferred a complaint in the Foujdarry Court against the said Baboo, in which she stated that Chutroo had executed a written obligation, promising to pay monthly to her mistress, that is to say, the plaintiff, the sum of twenty-five Rupees, not however specifying the period during which the allowance was to continue. A compromise was made and the defendant Chutroo paid to Jussa 750 Rupees, or a sum sufficient to recompense her for her care and instruction. The written engagement on which the present action was brought did not specify that the plaintiff was to receive the said sum during her life ; and though at the time of its execution, the defendant, then a young girl, had it in her power to have given more, yet owing to her advanced age she did not then appear to be able to pay such a sum.

On these grounds the suit was dismissed, and the costs made payable by the respective parties ; on this the plaintiff, Jussa, appealed to the Provincial Court of Benares. The third Judge of that Court (in conformity with the opinion of the Senior Judge) deeming the authenticity of the written obligation to be sufficiently established, and being of opinion that so long as Mussumnaut Chutroo was not under the control of her mistress, the latter had a right to the monthly stipend above mentioned, and that it was proved from the proceedings in the Foujdarry Court, that the former had absconded with various ornaments and wearing apparel belonging to the latter, for which no equivalent had yet been received, reversed the decree of the Register, and passed a decision in favour of Mussumnaut Jussa, directing that she should receive from Chutroo the sum of 1,400 Rupees on account of the monthly stipend of 25 Rupees from the 8th of February 1811 up to the 8th of October 1815 : also 1,175 Rupees on account of the same allowance from October the 8th 1815, up to the 8th of September 1819, and in future from the 8th of September 1819, as long as the latter remained out of her control she was to pay her monthly the sum of 25 Rupees: From this decree Chutroo was allowed to bring a special appeal to the Court of Sudder Dewanny Adawlut. After attentively going through all the proceedings, the Chief and Officiating Judges (W. Leycester and W. Dorin) before whom the case was finally heard, on the 25th of March 1822, recorded their opinion to the following effect :

The fact of the execution of the deed under which the Respondent claims is not established to the satisfaction of the Court : and according to the allegation of the defendant, it was executed by Baboo Surub Jeet Sing without her knowledge or consent. Admitting it however to have been established by sufficient proof, still

A dancing girl having left her mistress by whom she had been purchased when a child and educated, and having discontinued the payment of monthly allowance to which she had bound herself by a written obligation ; on a suit by the mistress to enforce the engagement or recover the girl, claim disallowed, the girl not being legally a slave, and the mistress not having proved that what had already been received was insufficient to cover the expence of her education.

there remains a question as to the legality of its provisions. It appears that both parties were of the Moohummudan persuasion ; now it has been proved by a formal exposition of the law as delivered by the Moulavees of this Court on a former occasion (*a*), a copy of which has been filed with the proceedings agreeably to the order of the Court, as well as from the tenor of the *futwa* of the said Moulavees on the present occasion, that, unless Chutroo was the lawful slave of Jussa, she (Jussa) had no right to exercise any control over her, or to cause her to do any act contrary to her wishes and inclination. The Magistrate of the Foujdarry Court would have had no power to cause Chutroo to be given to her mistress Jussa, had the case not been compromised. In this case there is no proof that Chutroo was the legal slave of Jussa. It is merely set forth by the plaintiff, that she had educated the defendant from her childhood ; and it is a well known fact, that in Benares many children are annually stolen and sold to the persons who profess dancing and singing ; besides, it is equally notorious that those people obtain much of their livelihood by the practice of prostitution. It is incumbent on the judicial authorities to abstain, without the fullest proof of free will, from countenancing the servitude of any individual entitled to freedom ; and in the present case, in the absence of any such proof, an order of a compulsory nature would have been clearly illegal. Even if the execution of the deed were proved to have been by the consent of the girl, it was nevertheless a nude pact, and a contract which did not promise her any equivalent ; in other words an undertaking to pay a sum of money in consideration of being exempted from a control to which the contracting party was not legally subject ; or, as the alternative, to return to a state of servitude, which the law, in her case, did not recognize. Such an undertaking then as this utterly illegal, and unworthy of support. The Respondent has not attempted to prove that she has not been fully reimbursed for whatever she might have expended, by the sum of 750 Rupees, received by her from the Appellant, and by the profits of her pupil during the time she remained with her ; nor does it seem at all likely that what she received in this manner was less than her expenses for education. It is but equitable to consider her receipts equal to her disbursements on the above account. It is obvious, moreover, that if the Appellant absconded with any ornaments or articles of dress belonging to the Respondent, the latter is at liberty to bring an action for them ; but that has nothing to do with the present case. With respect to the alleged customs of the dancers, on which the *rakeels* of the Respondent lay considerable stress, it is sufficient to say that such customs are in opposition to the law, and unworthy of being judicially recognized from their manifest tyranny and injustice.

(*a*) The case here alluded to originated in the year 1816, in the District of Furruckabad. A girl had been purchased when an infant from her parents by a prostitute, and having been educated in the courses, and for a long time followed the disreputable practices of her mistress, she at length attracted the special notice of Hadee Yar Khan, a most respectable person, who agreed to marry her in the event of her relinquishing her unlawful occupation. This she consented to do, and having left the house of her mistress, proceeded to that of the individual above named. The prostitute who had purchased her, and who of course dreaded considerable loss of profit from her departure, petitioned the Magistrate of Furruckabad to compel her return, with which request that officer, from a mistaken notion of duty, complied. An appeal having been preferred from the above order, the opinions of the best authorities in that quarter were taken as to the validity or otherwise of the prostitute's claim, and the same question having been propounded to the law officers of the Sudder Dewanny Adawlut, they all unanimously declared that it rested on no legal foundation whatever, that a child purchased in its infancy was at full liberty when of mature age to act as best suited its inclination, and that it was even a duty incumbent on the Magistrate to punish any attempt at compelling adherence to an immoral course of life.—For further information on this subject see *Principles and Precedents of Moohummudan Law*, article "Slavery."

Accordingly the decree of the Provincial Court was reversed, and judgment was given in favour of the Appellant. The costs were made payable by the respective parties.

SHEKH KHAWA'J, NAWA'Z, BOLA'KI, MA'NIK MUA'IYIN UDDIN  
AND IMA'M UDDIN Paupers, Appellants,

1890.

August 28th.

*versus*

MUHAMMAD SABIR, Respondent.

On the 19th June, 1824, in the Zillah Court of *Dacca Jalaipore*, Respondent, (estimating his cause of action at 501 Rupees,) against the Appellants and others, instituted a suit to establish his property in, and recover the services of, seven male and eight female slaves, of the Muslim creed; viz. Boláki Nawáz, Khawáj and Iwaz, (four brothers) and Manik, adult males, their respective mothers, wives and children. The parties claimed as slaves as well as the two brothers, Imam-uddin and Muaiyin-uddin, and their sisters, were made Defendants.

No. 2.

A legal right, to the service of another person, only can arise to a Muslim, when the party, claimed as a slave, or his progenitor, was an infidel captive to the Muslim force, prevailing in holy war.

The case of Plaintiff was this, "the fifteen persons claimed, are the hereditary slaves of my family, and descended to me from my father, Muhammad Bakir, who died in 1211 B. S. In 1217, Imam-uddin set up Musammat Jetan, as a widow of Bakshi Muhammad, the brother of my grandfather Muhammad Jamal, and caused her to give to Zaki Manji, a conveyance of a moiety in the slaves, and a six annua share of a *Tulukah* inherited by me. Imam-uddin attested the conveyance. Zaki Manji failed in forcibly getting possession of the slaves, and under an order of the Magistrate, sued for the share of the *Tulukah*; but his suit was dismissed. After this, Imam-uddin and his brother, by imposing on the Magistrate, in Sawan 1230, obtained an order for the interference of the Police Darogha; whereby, they deprived me, of possession of these domestic slaves. I remonstrated in vain to the Magistrate, and therefore under his directions, seek redress by civil action."

Imam-uddin in his defence alleged, that the slaves, were the joint property of the brothers, Zia Muhammad (his father), Muhammad Jamal (the Plaintiff's grandfather), and Bakshi Muhammad. By a deed of partition, in 1166 B. S. the father of Manik, and grand-father of Boláki and his brothers, were assigned to Zia Muhammad, and thus descended to him.

Plaintiff denied this, and alleged that Zia Muhammad had died without issue.

Bolaki admitted, that he and his brother were the hereditary slaves of Plaintiff, and that he had deserted from his house, at the instigation of Imam-uddin, and expressed his readiness to revert to the service of Plaintiff,—if assured of forgiveness.

Manik, Khawáj, and Nawáz, for selves and families, denied the right of Plaintiff, and alleged, that they had been the hereditary slaves of Muhammad Zia, father of Imam-uddin. They admitted occasional service in the house of Plaintiff, in consequence of proximity of residence; and pleaded that against them, as Muslims, no legal claim for their services as slaves, could lie.

On the 14th June 1821, the Zillah Judge passed judgment in favor of Plaintiff, awarding his property in the persons, claimed as hereditary slaves, and right to their services as such. Costs were made payable by Imam-uddin and his brother. The Judge, from the evidence, found that, Boláki and Mánik and their families, were hereditary slaves in the family of Plaintiff, and had descended to him, as heritage. They had served, in his house, as such till 1230; when, they were, wrongfully removed by Imam-uddin, with the intervention of the Police. The deed of partition, exhibited by Imam-uddin, was an obvious forgery. He claimed in right of Zia Muhammad; but it appeared, that Zia Muhammad's widow, Chand, had taken his Estate, as creditor for dower, and never opposed the Plaintiff's possession of the slaves: it did not appear who were her legal heirs, but that point was irrelevant. Moreover, Imam-uddin had attested the conveyance of a share in the slaves to Zaki Manji, from Jetan; and this fact was repugnant to his later pretensions. In the contests too, between Plaintiff and Zaki, neither Imam-uddin nor his brother had intervened.

On the appeal of Imam-uddin, Muaiyin-uddin, Nawáz, Khawáj and Mánik, the Dacca Court of Appeal, on 4th February, 1829, (sitting Mr. C. Smith,) affirmed the decision of the Zillah Court, with costs against Imam-uddin and Muaiyin-uddin.

Khawáj and Mánik, now moved the Sudder Dewanny Adawlut, for admission on their part, of a further and special appeal in *formá pauperis*: and on the 6th May, 1829, such appeal was admitted accordingly, by Mr. Ross, the prescribed conditions being observed. Mr. Ross, in this, concurred in the previously recorded opinion of Mr. Rattray, before whom, the application for the admission of the special appeal had originally come on. Mr. Rattray had adverted to the 9th Book of Institutes in the Hidaya, which indicated, capture in war of infidel enemies, as the legal origin of slavery; and as, the legalizing essential, under the Muslim Law, appeared to be wanting; he had proposed to admit the appeal. At a later stage of the case, execution of the decree of the Lower Court was stayed by Mr. Rattray,—exaction of caution from the Appellants being waived, with the concurrence of the collective Court; which held, such exemption to be proper, with reference to the poverty of the Appellants, and their inability to pursue the appeal effectually, if reduced to the dominion of the Respondent. An order, for the early adjudication of the appeal, being at the same time passed, it was heard by Mr. Rattray on the 7th June, 1830, and postponed for consideration.

Subsequently, Imam-uddin, Muaiyin-uddin, Boláki and Nawaz, moved the Court, to be admitted, as pauper Appellants in the case; and the Court dispensed, with the observance of the conditions usual, with reference to—their poverty,—and the performance of those conditions by the other Appellants. On the 27th July, Mr. Rattray delivered his judgment, to the effect, that the legal hereditary servitude of the Appellants, claimed as slaves, with their families, in the family of Respondent, was not established; and that therefore, the judgments of the Lower Courts should be reversed with costs against Respondent.

Mr. Ross next heard the case. He remarked, that the question, to be determined, was,—whether the claim of Respondent, to exact service, from Boláki and the rest, was legal under the Muslim Law, or not. In 1809, the Muftis of the Court, had delivered an elaborate opinion, on the general question, to which Mr.

Ross referred.\* It was in substance this—Freedom, is the natural state of man, and legal servitude only arises,—from infidelity and captivity in open war with a Muslim conqueror,—or from descent, from such infidel captive. Consequently, the sale in a state of destitution, of a child, or of the vendor's own person, establishes no right of property in,—or dominion over,—the object of the sale. With reference to these doctrines, Mr. Ross held that the essentials,—constituting legal servitude, and giving the Respondent a legal dominion, over the persons, claimed as slaves,—were wanting. It was true that, Boláki had admitted, that he and his ancestors had rendered services of slaves in the family of Respondent; and the others had made the same admission in regard to Imam-uddin's family; but they pleaded that the exaction of such services was illegal under the Muslim Law. Mr. Ross, therefore, on the 28th August passed final judgment to the effect proposed by Mr. Rattray.†

KEWAL RAM DEO, KALIKINKAR DEO, SARUP CHAND DEO,  
SAMBUNATH DEO, JAGNATH DEO AND DEB CHAND DEO,  
Appellants,

1892

5th May.

Sudder Dewanny Adawlut.

versus

GOLAK NARAYAN RAY, Respondent.

No. 3.

On the 9th September, 1826, in the Civil Court of Dacca against Kewal Ram Deo and sixteen others, Respondent instituted the suit whence arose this appeal. The substance of his plaint was this—"I sue defendants to establish my right, to reduce them to my dominion as my slaves, and I estimate the cause of action in the sum of five hundred Rupees their value. The person sued are—Kewal Ram Sakdar and wife, Kalikinkar Sakdar and wife, Sarup Chand Sakdar, his wife and mother, Sambunath Sakdar, his wife and mother, Jaganath Sakdar and wife, Bansi Sakdar and wife, Deb Chand Sakdar, wife and mother. Defendants are the descendants of Dakai, Puchai and Manai the hereditary slaves of my ancestors. They and their descendants, for generations, have rendered service, as slaves to my forefathers and to me, being supported by lands assigned. On occasion of festivals, they used to attend at my house and render services of slaves. On the 5th of Bhadun, 1233, B. E., the male defendants, with their families, left *Kismut Marta* in my division of Pergunna Bhawal, and located themselves on the *seven anna* section of the Pergunna. By local usage they cannot emancipate themselves from my dominical power. I, therefore, bring my action."

Jagannath and Sambunath appeared and made this defence—"The Taluka of our ancestors, which has descended to us, is situate in the *nine anna* section of Pergunna Bhawal, the Zemindari of plaintiff, and our profession is service. On

\* In consequence of a general reference to the Courts of Sudder and Nizamut Adawlut, (made on the 23d March, 1808, by Mr. J. Richardson, the Judge and Magistrate of Zillah Bundelkhand,) the Courts put certain interrogatories to their Muslim and Hindu Law Officers, calculated to elicit the doctrines of their respective codes in regard to slavery. The exposition of the Mufia, given in reply, is that, to which Mr. Ross refers, and constitutes Case II. head Slavery, in Macnaghten's *Precedents of Mohamadan Law*, page 312.

† This and the preceding Case are copied from the published Reports of the ~~Courts~~ Sudder Dewanny Adawlut. The others are reported by the Secretary to the Commission, on reference to the original papers.



“ this account, our father was employed by plaintiff as an agent in his Zemindari  
 “ affairs. Neither we, nor our ancestor, ever held *Nánkár* lands of plaintiff. The  
 “ Taluka referred to is component of plaintiff's estate, and comprises the *Kismuts*  
 “ Marta and Dari Marta, and other Mehals, and is recorded in the name of Dakai,  
 “ Puchai, Manai Ram Deo. We hold this Taluka, with its component villages, and  
 “ have never deserted any part as charged by plaintiff. His object is to degrade  
 “ and eject us by this claim. Our father, who acquired the Taluka, made several  
 “ pious assignments of its lands. Since his death, we have continued to hold, paying  
 “ to the plaintiff, as our superior landlord, the yearly rent of 358 Rupees 9 Annas,—  
 “ the fixed quota distributed on it. We refused to plaintiff the site of a dwelling,  
 “ which he wished to include in a garden. From spite, plaintiff by force collected  
 “ our rents. On our complaint to the Magistrate, the Daroga enquired and reported.  
 “ It is owing to consequent resentment, that plaintiff has brought this action.”

Kewal Ram and Deb Chand made the same defence. After witnesses had been examined on the side of both parties, on the 23rd May, 1828, the case came on for trial before Mr. D. B. Morrieson, the Acting Judge. On this occasion, plaintiff, with other documents, produced in evidence,—an *Ikrar* dated 25th Bhadun 1197 (1790) purporting to be executed by Dakai, Puchai and Manai, and bearing signature on it of Mr. W. Douglas, Collector of Jalálpur;—a *Collectory Purwana* of 24th Kartick 1197,—copy of the *Vyavastha* of the Pundit of the *Sudder Dewanny and Nizamut Adawlut* obtained in 1825, on a reference by the Magistrate of Sylhet and the relative official correspondence. Defendants also produced documentary evidence on the above date. Mr. Morrieson passed judgment with costs in favor of plaintiff, and directed writ to be issued to the Nazir to make over defendants to plaintiff as his slaves. The motives of this judgment were thus expressed—“ I find it clearly  
 “ proved that Dakai Sakdar and his two brothers, the ancestors of defendants, and  
 “ defendants also, are the hereditary slaves of plaintiff's family, and according to the  
 “ custom of slaves, held *Nánkár* lands of plaintiff and his ancestors. On occasion  
 “ of festivals and ceremonies they have always rendered services, as slaves, to  
 “ plaintiff's family;—in particular, in 1832, on occasion of the marriage of plaintiff's  
 “ daughter. Puchai Sakdar was father of the defendant Jaganath, and he attended  
 “ on, and rendered service to, plaintiff's grandfather. In 1233, defendants left the  
 “ estate of plaintiff as charged, and refused service. Two witnesses have proved  
 “ admission of defendants since suit and their offer to settle amicably. Other  
 “ witnesses, slaves of plaintiff, prove that defendants consort with them, as also that  
 “ they are plaintiff's slaves. In the *Ikrar* of 1197, Dakai and his brother, ancestors  
 “ of defendants, admit—that they are hereditary slaves of plaintiff's family,—that  
 “ plaintiff's grandfather bought the Taluka in their name, because they were slaves,  
 “ —that he fixed the yearly rent at 370 Rupees 2 Annas,—and that after allowing them  
 “ nine Rupees from the established rent assets as their *Nánkár* for services as slaves,  
 “ he made it over to their charge. This deed has also a clause that they and their  
 “ descendants will continue to render the service of slaves to plaintiff,—that in case  
 “ of default, plaintiff may resume,—and also that they will be subject to the local  
 “ usage in regard to sale. The *Vyavastha* and correspondence shew that defendants  
 “ fall within the fifteen classes of legal slaves. Defendants say, that the cognomen  
 “ of Sakdar was obtained by their ancestor, because they held the office of Sakdar;  
 “ and they allege they are dependant Talookdars on the estate of plaintiff. Two  
 “ Muslims and a Hindu depose in support of this. But I disbelieve their evidence  
 “ because the Muslims are not acquainted with the usages and parentage of Hindus

“and the Hindu witness is a kinsman of defendants. Other witnesses of defendants, “prove that in Pergunna *Bhawul*, slaves have the appellation of *Sakdars*. This “cognomen of defendants is then presumptive of their slavery; for a free man would “not assume a servile appellation. The marriage of defendant’s daughters with “slaves, as also their relation to slaves, is proved. Had their ancestors not been “slaves, they would not have executed, in 1197, the *Ikrar* to ancestor of plaintiff “before the Collector. By the *Vyavastha*, I find the master may exact service from, “or sell his slave and the latter cannot quit his master without his leave. The “defendants have this day filed a *Rubakari*, of the *Dacca* Court of Appeal, dated “7th November, 1826, held in the case of Sheo Chandra Surma and others *versus* “Gopinath Deo and others. But the facts of the two cases are not identical. The “defendants adduce the orders and proceedings of the Magistrate, but these are “preceded by the suit, and do not avail them to shew, that the object of plaintiff is to “deprive them of their *Taluka*.”

The appellants and defendant Bansi Badan to the Provincial Court of Appeal, preferred an appeal, which was heard by Mr. W. Cracroft, a Judge of that Court, on the 19th November, 1829; when he proposed to reverse the decree of the lower Court with costs. His motives were thus expressed.—“I find the claim fraudulent and malicious. Plaintiff filed no deed, signed by Appellants or their ancestors, which states them to be hereditary slaves of plaintiff. Without such “deed, and full proof, it would be inequitable to condemn a mass of persons and “their descendants to perpetual bondage. Respondent does, indeed, allege that “the ancestor of defendants, in 1197 B. E., (1790) executed an engagement “acknowledging their slavery, and that the real ownership of the *Taluka*, recorded “in their name, was in the ancestor of Respondent. This deed appears to be very “suspicious. It bears the signature of Mr. Douglas, in English, on the top: but “why it should have been produced to him, and by whom, and in what case,—is not “apparent. It is stated that Appellants’ ancestor appeared before him and acknowledged. Respondent was not summoned to give evidence; nor any of the persons “whose names are signed as witnesses. It may be, that the father of Respondent “forged this deed to aid the usurpation of defendants’ *Taluka*. If genuine, he would “have mentioned the paper in his plaint so also in the case before the Magistrate, “in which he instituted inquiry as to the *Taluka* and the alleged slavery of Appellants. The evidence of Respondent’s witnesses does not establish his case. They “say, indeed, that Appellants are hereditary slaves and rendered service of slaves. “But they enter into no details, such as when, what service, and by whom rendered. “From the papers filed by defendants, it appears they are *Talukdars*, and follow the “profession of *writers* and are respectable persons. Their *Taluka*, recorded in the “name of their ancestors, is component of the estate of Respondent and charged “with the rent of 358 *Rupees*, 9 *Annas*. This, Appellants have paid to Respondent “or his agent.”

On the 29th December 1829, Mr. Charles Smith, a Judge of the Court, who next heard the case, proposed to confirm the decision of the lower Court. Mr. Smith’s judgment was thus expressed—“Claim of plaintiff is sufficiently proved by “the evidence of the witnesses and documentary proofs adduced by plaintiff. Of “the latter, is the engagement of the ancestor of defendants, attested by Mr. “Douglas. It establishes that the Appellants and their ancestors are the hereditary “slaves of plaintiff and his ancestor. According to usage, they attended at the “house of plaintiff on marriages and other occasions, and rendered servile offices.

“ It is true, the witnesses of Appellants depose, that they are ignorant of the servile state of Appellants ; but the depositions of some of them tend to support the case of plaintiff : for they admit that in *Purgunna Bhawul*, the cognomen of Sakdar, by which defendants are designated, belongs to slaves. It is proved, that the Taluka, recorded in the name of the ancestor of Appellants, was really the acquisition of the ancestor of plaintiff ; for there is no ground to impugn the engagement authenticated by Mr. Douglas, the Collector of Dacca Jelalpur. The receipts then of rent, on which the Appellants rely, do not oppose the claim of plaintiff ; for they are essential forms resulting from the tenure. It is very improbable, that any person should bring forward an unfounded claim of this sort and in such case, it must be assumed absurdly, that thirty-five years ago, the engagement adduced by plaintiff was got up by his ancestor, in anticipation of the present claim. That engagement is duly authenticated by the principal Civil functionary, before the operation of the present code. At the time many other Talukdars sought separation from the Zemindari of defendants. Hence arose necessity of this engagement, as is in fact indicated by its terms, and the Collector’s purwanna, dated 24th Kartick 1198. Slavery of a family may be inferred from continuous service ; and it seldom happens, that after the lapse of many years, the original title, shewing acquisition of the slave’s forefather, is forthcoming. In this part of the country, many slaves are apparently persons of respectability and educated, and manage the Zemindari affairs of their masters. But this constitutes no ground of emancipation. In a word, the Appellants and their ancestors are the hereditary slaves of Respondent, and if discharged, notwithstanding proof of their servile state, most slaves will become recusant, and on various pretexts will find means to effect their discharge. It would be unjust, therefore, to liberate the Appellants, notwithstanding the clear proof of their servitude, and the local usage supported by the *Vyavastha* of the Sudder Pundit. The report of the Darogha, on which Appellants rely, rests on depositions not taken on oath. However, some persons did mention that Appellants were reputed slaves. The interference of the Darogha at all was irregular. With reference, therefore, to, the *Vyavastha*, the correspondence relative to it, and the motives in the judgment of the Lower Court, I propose to confirm.”

In consequence of this difference of opinion, the case was sent to the Murshidabad Court of Appeal to be heard by a third Judge. Mr. C. W. Steer, a Judge of that Court, on the 20th April, 1830, passed the judgment proposed by Mr. Smith.

The Appellants now moved the Court of Sudder Dewanny Adawlut for admission of Special Appeal ; which was allowed on the 21st June, 1830, by Mr. Alexander Ross and Mr. R. H. Rattray.

They were of opinion, that the Lower Court had passed judgment against Appellants without considering whether their ancestors had legally as slaves, come under the dominion of Respondent’s father. On the precedent of the case of Shekh Khawaj and Nawaz versus Mahamad Sabir, they directed that the execution of the judgment of the Lower Court, should be stayed pending appeal without exaction of security. The case being ordered for trial out of number, came on before Mr. R. H. Rattray on the 26th March 1832 ; when he concurred in the judgment proposed by Mr. Cracroft, and its grounds. Kalikinkar, one of the Appellants, had died ; and the Wakils of Respondent, who had brought this to notice, objected that his heirs should be summoned to follow up his appeal. Mr. Rattray remarked that the objection was without weight ; for there was no need to summon his heir to appear, if death had emancipated him.

The case was next heard by Mr. A. Ross on the 5th May, 1832,—when he made final, the judgment proposed by Mr. Rattray. His motives were thus expressed—“In my opinion the claim of plaintiff is not established by his witnesses or documents. The witnesses say, that they had seen defendants render service like the service of slaves, in the house of plaintiff. But this, does not prove that they are really slaves. Moreover, if the genuineness of the engagement be conceded, still it is apparent from it, that the defendants are dependant Talukdars, holding on condition of paying a fixed rent and rendering service. If then, the Appellants should not render service, Respondent may resume. From this it seems, that during the tenure of the *Taluk*, service is obligatory, not after abandoning the tenure and thereby discharging themselves: and it is to be observed, that he who has power to emancipate himself, cannot be considered a slave.”

KISHN CHANDAR DATT CHAUDHARI, Appellant,

versus

Sudder Dewanny Adawlut,  
1832.

24th November.

1. BIR BAL BHANDARI.
2. JAIMANI, his wife.
3. RAM MOHUN, his minor son.
4. ROKNI, widow of his brother SUBAL.
5. ADRI, widow of his brother JUGAL.
6. SHAM RAM.
7. SHEO RAM.
8. ABHA' BHANDA'RI, Respondents.

On the 12th September, 1827, plaintiff instituted in the Civil Court of Maimansingh against the above defendants, an action, the cause of which was estimated in the sum of sixteen Rupees. The statement of his case exhibited by the pleadings was this—“The slave girl Kabutari, was part of the nuptial present, brought by his bride on the marriage of my great grandfather. He gave her in marriage, to his hereditary slave Durga Das and caused their daughter Burati to be married to Sonatan. Their son was Nandu, who was the father of the defendant Bir Bal, his late brothers Subal and Jugal and his sisters Abha and Panchami, of whom the latter is dead. This family was part of the hereditary slaves of my family; amongst whom also are included Jaimani, the wife of Bir Bal, by whom he has a son Ram Mohun, a minor; also Rokni and Adri, the widows of Subal and Jugal respectively. They have rendered continuous services as slaves in my family, receiving support, lodging and Nankar land, on our Estate at Haripur. On a partition of slaves with my Kinsmen, in 1816, Bir Bal and his brothers and sisters with their wives and families fell to my lot, and continued to render service as slave, being supported as before. The sister of Abha I gave in marriage, receiving the usual present; and Adri, the widow of Jugal, for the last six or seven years has resided at her father's house at Daluthan. In the year 1825, Bir Bal who was in charge of my effects absconded with the keys, being incited to this by Sham Ram, Sheo Ram, and Abha. He obtained employ as a peon on the establishment of the Magistrate, to whom I preferred my complaint. Before trial, an adjustment took place. Bir Bal brought to me his Nephew Jewan, and on the 12th December, 1825,

No. 4.

“ executed an acknowledgment of his servile relation, to me, which was filed in the  
 “ Magistrate’s proceedings. In July, 1827, Jewan died. Although Bir Bal and his  
 “ family, occupy the house, and enjoy the lands allowed them by me as before,—still  
 “ incited and harboured by the above persons, they refuse to render service of slaves.  
 “ Owing to their recusancy, I have incurred a loss of sixteen Rupees in procuring  
 “ work to be done by others. I, therefore, sue the said Bir Bal, his wife and son  
 “ and brother’s widows for the right of exacting their attendance and service as  
 “ slaves,—associating the other three who incited them, as defendants. I estimate  
 “ cause of action in above sum.”

Except Bir Bal, none of the defendants appeared to defend.

The substance of his defence was this—“ I deny,—that I or my family are the  
 “ hereditary slaves of plaintiff,—that we have received support—or that we hold of  
 “ him, as charged, any dwelling or Nānkār land. My grandfather Sonatan  
 “ Rawat married Parameswari, the daughter of Durga Das Talookdar. He did not  
 “ marry the daughter of Kabutari. I, and my forefathers are and were free,—support-  
 “ ing ourselves as cultivators and house-holders. My father died at the age of sixty-  
 “ five. For seventeen or eighteen years, I served Ram Ruttun Munshi at Kaliada, in  
 “ Zaffur Shahi. Afterwards about the year 1820, I settled on the estate of  
 “ Vishnu Priya Dasi as a ryut. When in coparcenary with plaintiff, his uncle,  
 “ Gugga Purshad, bought my sister Panchami from my father. This is irrecon-  
 “ cileable with plaintiff’s claim. In 1824, I received an advance of one year’s  
 “ wages and entered the service of plaintiff. I left this, because he did not support  
 “ me, and attached myself to the Magistrate’s establishment as a peon. Plaintiff  
 “ proceeded against me under Regulation VII. of 1819, before the Magistrate.  
 “ I was apprehensive I might be dismissed and imprisoned under that regulation,  
 “ were my desertion of service proved. To adjust the case I succeeded in assign-  
 “ ing my nephew to the service of plaintiff. I am illiterate, and plaintiff, in his  
 “ compromise, may have got his kinsman Kishu Mujmuadar to put in a claim to suit  
 “ his purpose. If so, it is not valid. Plaintiff did not emancipate and marry my  
 “ elder sister Abhiā. My father effected her marriage at his own cost.”

In his reply, plaintiff wrote—“ Bir Bal never was hired as a servant nor did  
 “ I make him an advance of wages. The acknowledgment filed by Bir Bal was  
 “ prepared by a person chosen by himself. It is untrue that his father sold Panchami.  
 “ When defendant found that the residence on the location assigned by me, did not  
 “ suit, he rented a house on the Lakeraj premises of Vishnu Priya Dasi and resided  
 “ there. He tenanted also from me at rent, lands exclusive of his before assigned  
 “ house and Nānkār. I did not prosecute him before the Magistrate, on an alleged  
 “ receipt of wages in advance.”

This case was originally referred for trial to the *Sudder Amin*; and witnesses  
 were examined on both sides and documents received. Owing to the relationship,  
 which existed between the person on whom that office devolved, and plaintiff,—the  
 case reverted to the Judge; before whom the plaintiff exhibited copy of the letter of  
 the Register of the Nizamut Adawlut and a *Iyavastha* of its Pundit taken in another  
 proceeding.\* He had before filed the partition paper, and the acknowledgment of  
 the defendant filed in the proceedings before the Magistrate. On the 3d July, 1832,  
 the case was heard before Mr. Cheap, Judge of the Zilla; when he passed judgment  
 on perusal of the papers without considering the oral testimony. “ The letter and  
 “ *Iyavastha* are irrelevant. They shew the want of right in slaves, to redeem

\* See 8th Precedent Macnaghten’s Hindu Law, vol. ii.

“ themselves from servitude by payment of price and other points. The plaintiff has  
 “ filed no deed, proving that the defendants are his hereditary slaves. His ancestor  
 “ assigned the Nānkār to the ancestor of defendants, in consideration of hard labor  
 “ and *gratuitous* service. With reference to this, plaintiff has in a manner a claim  
 “ on defendant as servants. If really, the heirs of the original receiver, for such a  
 “ quantity of land, are to be held to be slaves of the grantor,—in such case, the land  
 “ would be insufficient for their support. It is inequitable (though even such had  
 “ been the usage,) that the descendants, to the lowest generation for ever, should be  
 “ subject to slavery to plaintiff,—because his ancestor may have given two or three  
 “ beegahs to their remote forefather. Under these circumstances, I dismiss the  
 “ suit with costs. If he who holds the Nānkār Lands refuse in consideration to  
 “ render service to plaintiff; in such case plaintiff may resume, but cannot eject  
 “ the occupant without suit.”

Plaintiff, dissatisfied with this judgment preferred his appeal to the *Sudder Dewanny Adawlut*. The exceptions taken by him were these. I. The *Sillah* Judge did not consider the oral testimony, which proved that Bir Bal and his family are his hereditary slaves. This was proved by one of defendant's own witnesses, and his acknowledgment before the Magistrate. The omission of the Judge was illegal,—particularly as the evidence had been taken after the issues fixed on perusal of the pleadings under Regulation XXVI. 1814, Section 10; II. The letter and *Vyavastha* are relevant; for they shew the right of masters over their slaves and their duties of service; III. The defect of any original deed is not conclusive; for deeds are lost and not forthcoming after lapse of long time, and hereditary right may be proved by circumstances and other documents. The long hereditary service of defendant's family for generations was sufficient proof, independent of the above stated acknowledgment; IV. The support of plaintiff's family by assignment of dwelling and Nānkār lands, can only denote their servitude, which was proved in evidence; V. The argument, that the land originally assigned to a slave would be insufficient to support his descendants in progress of time is inconclusive,—because when that occurs, owner may supply from other resources sufficient support. The fact is, defendants were sufficiently supported as is proved; VI. It is admitted by the Judge, that defendant's family had continuously held a house and lands from plaintiff's family for abode and support. They could not, therefore, be emancipated from their servile relation to plaintiff.

On the 24th November, 1832, Mr. R. II. Rattray, a Judge of the *Sudder Dewanny Adawlut*, under Clause 2, Section 2, Regulation IX. of 1839, after perusal of the petition of appeal and judgment of the Lower Court, affirmed the latter, without calling for the proceedings at large. His motives were thus expressed—  
 “ Appellant has produced no deed, shewing that Respondents were his hereditary  
 “ slaves. What avails his mere assertion that his ancestor assigned the Nānkār  
 “ land to the ancestor of defendant in consideration of service and attendance? But  
 “ let it be assumed, that he did so. For two or three beegahs assigned as Nānkār  
 “ or *Chakran* to the ancestor of Respondents, it would be most inequitable that the  
 “ descendants of the receiver should for ever be slaves to the descendants of  
 “ Granter. Could Appellant supply the deficient deed it would not avail.”

Sudder Dewanny Adawlut.  
1835.

January 5.

MAHANT SURJAN PURI, Appellant,

*versus*

BASANTI (*Female*,) and others, Defendants.

No. 5. On 7th February 1831, the Mahant Surjan Puri, of Palmou, in Pergunnah Gargadh, in Zillah Ramgurh, filed in the Civil Court of that Zillah, a plaint of which this is the substance—"In the great famine of 1769 (Fussly 1177) Prani, originally of the Modi caste, being impelled by distress, with her daughter Basanti, (then aged 5 years) messed with Kahars, and thus descended into their caste. When in this state, she sold and made over her infant daughter, as slave, to Mahant Gir Puri, my spiritual grandfather, for three Rupees,—executing a bill of sale dated in that year. My grandfather supported Basanti in the famine and brought her up. Mahant Dalu Karan Puri, the disciple of Gir Puri, (who died) succeeded him, and Basanti passed under his dominion. Dalu Karan married her to his male slave Achamba. The issue of this marriage was two girls, Charua and Ramni. After this, Basanti and daughters attended on, and served the Gosain Bechu Puri, at village Gujar Sotra. He was the spiritual brother and successor of Dalu Karan. At that place, Ramni produced one son Dhuna; and her sister produced five daughters and two sons. Her daughters are Kumiya, Soniya, Anandi, Namiya and Mongiya. Her sons are Dhukha and Sukha. Kumiya has three daughters Dharmi, Nima, and Basanti second. Anandi has a son Byria, and a female babe. Namiya produced a son Tulsa. All continued to render services of slaves to the Gosain Bechu Puri, whom I succeeded. In 1227 Fusly, Charua with her children absconded from my dominion and took refuge in village Urdi. My agent went to bring her away, and she executed an engagement (to which Lachman Singh was caution) to attend on me, after settling her agricultural affairs; and she attended accordingly. In 1229 Charua again absconded with her children, except one daughter Anandi. She went to village Khand Dih. Anandi, as also her grandmother Basanti, and Ramni, with her son, remained under my dominion. In 1235, I was involved in a litigation in the Civil Court of Birbhoom regarding a Sanyasi convent and some villages. I could not therefore look after my slaves but I often sent to summon them and they promised to come. But after this Nim Ray harboured Namiya and Tulsa. I lodged information with the Police Darogha, who reported the matter to the Magistrate. By him I was referred to my civil remedy. I therefore sue Basanti, her daughter Charua and her offspring, for the right of recovering them as slaves, and Nim Ray, who has harboured two of them as stated. I estimate the cause of action in the sum of one hundred and forty-eight Rupees."

On the part of Basanti, Soniya, Kumiya, Dhukha and Sukha this defence was made—"Basanti's mother was Man Mati. She never sold her daughter nor executed a bill of sale. Basanti on her mother's death was yet a minor. In the famine her aunt brought her to village Gargadhi in Pergunnah Gharghadh, and labored for their support. She received a loan of coarse grain from the Mahant Gir Puri. Two years after, he took an acknowledgment, for five Rupees as the price of the grain supplied. After this Phulu, the sister of the Gosain Bechu Puri, of that village, took the acknowledgment, by paying the five Rupees, and

“ Basanti remained with Phulu by whose care she was married to a Kahar. Until  
 “ Phulu died, Basanti remained with her. Subsequent to her death and about thirty  
 “ years ago, Basanti married her daughters with free Kahars. Besides, she sold her  
 “ grand daughter Namiya to Nim Ray. This act the plaintiff charged as a theft at  
 “ the Police office, and on report to the Magistrate was referred to his civil remedy.”

In his reply, the plaintiff urged, that in a famine no one supported another, particularly one of low caste, for the mere acknowledgment of grain or money. He admitted that Basanti and her children attended on Phulu, the sister of Bechu Ray, the disciple of Gir Puri. But (he added) that she died in 1224. The plaintiff also stated that the defendant Nim Ray since the suit on the 28th April 1831, had voluntarily come to him and written an undertaking to give up his bill of sale; and that further, of the defendants, Kumiya, Basanti and Charua had executed an engagement promising to revert to their duty.

The rejoinder was to this effect—“ Plaintiff got Nim Ray to engage to give  
 “ up the bill of sale, by promise of repayment of the price paid by Nim Ray; but  
 “ has not repaid the same. None of the other defendants, have given any engage-  
 “ ment of the nature asserted by plaintiff.”

The case, having been referred to the Sudder Amin and Mufti of the Court, came on for judgment (on the 14th September 1832),—after the examination of witnesses and receipt of proofs of both parties. It was passed in these terms.  
 “ Only five of the claimed slaves have defended. They assert their freedom. But  
 “ the evidence proves, that Basanti and her descendants attended as slaves,—on  
 “ Gir Puri, Dlu Karan Puri, Bechu Puri, disciples of Gir Puri,—on Phulu his  
 “ sister,—and on plaintiff. Defendants admit that Ramni, the second daughter of  
 “ Basanti, is still in attendance on plaintiff. From this admission too it would  
 “ seem, that they admit service as slaves to Phulu, sister of Bechu, whom  
 “ plaintiff succeeded. Defendants have failed to establish their freedom. Dukha  
 “ defendant has filed a paper dated 5th Phagun 1179 Fussly, to support the  
 “ story of defendants as to the pecuniary obligations said to have been trans-  
 “ ferred from Gir Puri to his sister Phulu. This paper shews that Aluiya, her aunt,  
 “ pledged Basanti for five rupees to Gir Puri. Bechu Ray, an alleged witness to  
 “ the deed, was examined in support. Persisted in declaring his age to be that of  
 “ sixty years; but he could then only have been five months old, when the deed was  
 “ executed. It is too quite apparent, that his name is written over an erasure. He  
 “ says too that the writing passed twenty, twenty-two, or forty years ago. I hold the  
 “ deed, to be a fabrication. The witnesses of defendants, prove that Basanti  
 “ descended into the Kahar caste with leave of Bechu Puri, disciple of Gir Puri;  
 “ and that she and her offspring attended on him. This confirms the claim of  
 “ plaintiff. The defence of the defendants, who admit receipt of grain in the famine  
 “ of 1177 from Gir Puri, confirms the bill of sale charged by plaintiff. If defendants  
 “ were not the hereditary slaves of plaintiff,—Nim Ray, who had bought two of her  
 “ grand children from Basanti, would have never given his bill of sale to plaintiff;  
 “ and such surrender is admitted. Defendants admit receipt by Basanti of grain  
 “ from Gir Puri, whose successor plaintiff is; and one of their witnesses proves that  
 “ she attended on that person. It is most improbable that, in a famine any person  
 “ would support with grain or money an unbought person. I decree Basanti and  
 “ thirteen other persons claimed as slaves to be made over to plaintiff as his slaves.  
 “ The parties are to pay their respective costs; for the slaves are unable to earn for  
 “ themselves.”



From this decree, on part of the defendants who had appeared, an appeal to the Zillah Judge was preferred. The Zillah Judge (Mr. T. R. Davidson) on the 17th December, 1833, reversed the decision of the Sadar Amin with costs in favor of the appealing defendants. The motives of his judgment were thus expressed—

“ Respondent has filed a bill of sale on plain paper dated 1769 (Fussly, 1177) to prove his claim. It is odd, that such a paper should have come into his possession. Nim Ray wrote indeed an engagement to plaintiff, and gave up the bill of sale of Namiya and Tulsi which he had taken from Basanti. But from this, his collusion with plaintiff is apparent, or at all events such surrender and engagement cannot affect the other claimed slaves. I attach no weight to the engagement to attend, written by Kumiya, Basanti and Charua, and filed by plaintiff. It is subsequent to suit. Now, if after being satisfied, they, as slaves, attended on plaintiff and wrote the paper, why did not Respondent get them to confess to his claim? Such a deed taken in the interim is nothing and they now deny it. A claim to a slave is first tried with reference to documentary evidence. Now the paper filed by plaintiff cannot be accepted by the Court. It remains to consider the evidence of the witnesses. Those of the Respondent state that during 14 or 15 years the Appellants had run away. The Sadar Amin dwells indeed on the contradictions of Appellant's witnesses: but it had been right had he equally adverted to the depositions of Respondent's witnesses. I find that just as the witnesses of Appellants are contradictory, so also are those of Respondent's; and their depositions are nothing. The Sadar Amin, passing by all the witnesses of Appellants, attacks the evidence of Bechu Ray. Now Chitan, a witness of Respondent, questioned as to the Ikrar written by Charua, first said he did not know, and then added that she wrote the deed. Under the premises the decision of the Sadar Amin is considered erroneous. Decreed that it be reversed and that Respondent do pay all costs of both Courts.”

From this decision, the Mahant Surjan Puri preferred a petition of Special Appeal to the Sudder Dewanny Adawlut, which on the 1st January 1835 was disallowed by Mr. R. H. Rattray, for defect of sufficient reason shewn. The grounds of Appeal urged were these. I. In 1177 Stamps were not in use. Therefore the defect of Stamps cannot be ground of suspicion of the bill of sale. II. Independant of direct evidence to the deed, it was supported by the presumption arising from defendant's answer which admitted that Basanti was pledged to Gir Puri to secure an advance received. Now a girl no where is ever pledged, and still less would she be taken in pledge during a famine. III. The imputation of collusion with Nim Ray is repelled by the fact that plaintiff had complained against him in the Police office. IV. The engagement of Charua and the two others, to which the Judge alluded, is virtually a confession; and if the Judge doubted the fact of execution he should have investigated,—particularly as those three did not appear to appeal. V. Beni Ram, a rich Mahajan, kept Mungiya, one of the slave girls, and had got up the appeal. VI. It was a misdirection in the Judge, to state that it appeared from the depositions, that the slaves had during 14 or 15 years absconded. Only Charua and her children in 1227 run away; and in 1228 returned. When she again absconded she left her daughter Auandi, who, as also her aunt and cousin, were under the dominion of Appellant.

KIRTI NARAYAN DEO, and others, Appellants,

Sudder Dewanny Adawlut-  
1895.

versus

GAURI SANKAR ROY, Respondent.

7th December.

No. 6.

On the 17th April 1831, the Respondent in the Civil Court of Dacca against Kirti Narayan Deo and others instituted an action, cause of which was estimated in the sum of sicca rupees sixteen. The statement of his case was this. "The late Ram Saran Ray and the late Bugui Ram Ray, brothers, were landholders in the Tupa Hazardeh. I and my half brother, Kirti Sankar Ray, represent the former. In 1797, my father and uncle separated and deeds of partition were exchanged. In a division of his family slaves, Binod Ram Deo and his family fell to my father's share, and his brother Anandi Ram and his family to the share of my uncle. Binod Ram died, survived by his wife Kusala and three sons Kirti Narayan Deo, Sir Narayan Deo and Suraj Narayan Deo. Drupadi, Radha Mani, and Bejiya are the wives of Kirti Narayan. Jai Narayan, Dullabh Narayan and Kishn Narayan, are his sons, minors. Ratni and Isari (unmarried) are his daughters. Mahiswari is the wife of Suraj Narayan. These thirteen persons are owed by me and my half brother as slaves in equal shares, and owe us the service of slaves. Binod and his family and descendants have continuously been supported by our family, and are provided with house and lands for subsistence. They have also continuously rendered services as slaves to me and my half brother. The total area of the lands, still held by them in different *Kismuts* of the joint estate, is equal to three *duns*, three *hanies*, seven *gundas*, three *kowries*. When the family abode assigned to defendants was found too confined, they annexed to it part of the adjoining abode of Labin another hereditary slave of my family. The marriages of Binod's sons were effected at our expence, and their marriageable daughters were married with our leave on receipt of the usual presents. On occasion of need, we have assisted the family; for instance, we rebuilt at our cost their houses when burnt down. Dissention arose between me and my half brother, and in September 1829, he protected and incited Kirti and the rest of the family to refuse to render me services, due to me as joint owner, and to render them to him alone. Kirti had asked me to emancipate his daughter Ratni, that he might marry her, but I wished to attach her to my household. Then it was, that, in collusion with my brother, this recusancy occurred. In February 1830, he married his daughter to Briju, the Bhandari, or slave of Ram Narayan Ray, on the discharge of my brother alone who received the present. I sue, therefore, to reduce to my dominion, as their joint master and owner, the said thirteen slaves belonging to the family of Binod, and I associate, as defendants my said brother, Ram Narayan Ray and Brijoo, the husband of Ratni. I estimate the cause of action in the sum of sixteen Rupees,—the loss sustained by services refused."

Of the defendants, Kirti Narayan and Sri Narayan alone appeared. Their defence for themselves and the rest of the family was this. "We deny entirely the claim of plaintiff. Our father Binod Ram was free and earned his livelihood as a cultivator and tenant of land and by service,—being settled at different periods of his life at various places. For instance, on paying nine Rupees, he took some uncultivated land and half of the bed of a tank on the estate of Bijai Ram Ray and

“ Kishn Ram Ray, and established his domicile there as a ryot. He, and, after him, “ we his sons have paid rent for any lands on the estate of plaintiff and his brother, “ which we have cultivated as tenants. We hold the acquittances. The inter- “ marriages of our family are in the families of Talookdars our equals and effected “ at our own costs. We act as managers of land and thus add to our livelihood. “ Plaintiff himself appointed me by *sunnud* on a salary to manage part of his estate. “ The alleged deeds of partition between plaintiff’s father and uncle are untrue. “ Anandi Ram had two other brothers, besides Binod Ram. The partition must have “ extended to the whole. No discharge was taken from the plaintiff’s brothers on “ Ratni’s marriage. He gave to plaintiff and his brother, our Landlords, the “ complimentary present according to usage observed by other under tenants. “ When our house was burnt, we lost papers. Plaintiff takes advantage of this “ and makes his brother and Ram Narayan defendants,—expecting an admission “ for them, Ram Narayan being our enemy, and depriving us of the evidence of the “ brother. It is true, we annexed to our dwelling part of the premises of Labni : but “ we paid two rupees in consideration to his brother Phulu and hold it on rent. In “ 1830, when the management was taken from us, we gave up the lands we culti- “ vated on the joint estate of plaintiff’s brothers. We hold no lands for our support.”

The plaintiff in his reply alleged that by the custom of the country, if Bhandaris, or household slaves, cultivated on rent lands of their master or others in excess of those assigned for support, such fact did not discharge them from their liabilities as slaves. Plaintiff further alleged, that defendant Kirti had delivered no account of the household effects in his charge, nor of the money of his mother invested in trade ; with which he had been intrusted. He further alleged that since suit, defendant had offered to admit claim,—if Ratni’s discharge were given. Each party gave lists of numerous witnesses to be examined on their sides respectively, and filed documentary proofs. On the 24th August 1832, the case having come on for judgment before the Principal Sudder Amin, he passed it to this effect,—that the said thirteen slaves should render as before to Plaintiff their services as slaves, which he found due to him as joint and equal owner with his brother Kali Sankur Ray. Each party was to pay his own costs. The motives of his judgment were thus expressed. “ I do not find, “ that the facts urged by defendants are established by their witnesses examined and “ documents adduced. I do not give credit to their witnesses : and indeed, some parts “ of their evidence tend to substantiate the case of plaintiff. They corroborate the “ oral testimony adduced by plaintiff. This proves,—the partition of slaves charged by “ plaintiff,—the continued support received by Binod Ram and his family,—and ser- “ vices rendered by them before and after partition. One of the witnesses, Kishennath “ Deo Rai, the son of Bijai Ram, has produced the original deed of partition signed by “ plaintiff’s father. The evidence of his witnesses also substantiates the other facts al- “ leged by plaintiff,—that of marriage of the male defendants at expence of plaintiff’s “ family, and that of leave and discharge obtained from plaintiff and his brother on “ the occasion of their daughter’s marriage. It also shews that the sons of Anandi “ Ram still serve the said son of Bijai Ram. The acquittances filed by defendants “ are old and defaced and not entitled to credit. But if genuine they do not “ repel the claim. For a slave is not exempted from his liability as such, be- “ cause he may rent lands from his master or others, in excess of those assign- “ ed for his support, or because the master, to favor the slave, commits to him “ the management of his lands, and collection of his debts. Plaintiff has exhibited “ copies of two depositions of Kirti Narayan and Sri Narayan examined in March,

“ 1828, as witnesses in an action of defendant brought in the Munsif’s Court against his brother Kirti Sankar Ray. There is also, copy of the answer of Kirti Narayan taken before Magistrate in July 1825, to the complaint of Jagannath Deo. The defendants clearly admit that they are slaves (Bhandaris) of plaintiff and his brother. The fact that defendants are the owned slaves of plaintiff being proved they cannot be exempted from slavery,—with reference to judicial usage and the Vyavastha of the Pundits of the Nizamut Adawlut.”

From this decision, Kirti Narayan Deo appealed to the Zillah Judge: and on the 13th September, 1832, the appeal was heard by Mr. Cheap who held that office. He affirmed the judgment of the Principal Sudder Ameen with the amendment indicated in the following his judgment. Each party was to pay his own costs. “ Neither from the deed of partition, nor any other document, do I find that the ancestor of Appellant rendered service to Respondent as a slave. Nevertheless Appellant, in his answer before the Magistrate, and his brother Sri Narayan, in his deposition before the Munsif, admitted that they were the Bhandaris or slaves of Respondent and his brother. His denial now, therefore, can avail nothing against his own admission. Respondent now says all his effects were in charge of Appellant; but it is odd that being so, he should sue, estimating the cause of action in the sum of sixteen Rupees only,—his loss by the recusancy of defendant and his family. With reference to the premises, I infer that Appellant and his ancestor on receiving lands for support, rendered service to Respondent and his ancestor. If Respondent should not allow *Nánkár* lands for support of Appellant and family free of rent and charge, then they will become exempt from their servitude, and may seek their support where they can get it.”

On the 21st February, 1833, Kirti Narayan in person, preferred to the Sudder Dewanny Adawlut, on the part of his self and the other defendants, a petition for the admission of a special appeal. He alleged that the above decisions were contrary to the appeal\* adjudged in the Sudder on the 5th May, 1832, and moreover urged these exceptions. I.—“ The deed of partition, on which the Principal Sudder Ameen relied, was produced by Kashi Nath, the cousin of plaintiff, who is an interested witness; and it is a fabrication. This is indicated by the fact that the third and fourth brothers of Binod are not included in the partition. Of these, one died lately, a free person, and the sons of the other are free and reside at a distance from the abode of plaintiff. II.—The depositions alleged to have been made by me and my brother before the Munsif were not so made; but must be those of other persons using our names. My answer before the Magistrate was taken in Persian of which I am ignorant. Whatever may have been inserted, I never admitted servitude to plaintiff. III.—All our designated witnesses were not examined, and we applied for writs of attachment, but no order was passed. IV.—It is incompatible with our alleged servile state that we should be appointed agents of plaintiff, and his brother, thus doing the business of free persons; and so is the hiring lands at rent. We rendered service to plaintiff as servants, holding lands which produce six Rupees. Our *Sanad* of service is filed. V.—Plaintiff can adduce no bill of sale to prove our servile state, and the support of fourteen or fifteen persons on nineteen *karies* of land, as alleged by plaintiff, is absurd.”

On the 23d March, 1833, the special appeal was admitted by Mr. R. H. Rattray, —because, with reference to, the circumstances of the case, the exceptions of

\* V. Supra-appeal of Kewal Ram Deo and others, No. 3 of this Appendix.

Appellant, and cases previously adjudged in the Court, the case required further consideration.

Subsequent to this, a Wakeel was appointed to prosecute the appeal on part of Kirti Narayan and ten of the other defendants decreed to be slaves. Express authority to represent Drupadi, the wife, and Dullabh, the son of Kirti, was not given; but a female Paramesuari, whose name does not appear amongst the original defendants, joined as a party to the appeal.

The Appellants substituted the petition of Kirti Narayan for admission of appeal, in place of the bill of exceptions required to be filed, subsequent to admission of special appeal. To this, the substance of the answer of Respondent was this. "The Appellants are our hereditary slaves; and they are of the fourth description or inherited slaves, referred to in the *Vyavastha* of the Court's Pundits to which we crave a reference. It is the local custom to employ confidential Bhandaris to collect rents. We gave a certificate to the Appellants, to accredit them, and the duty thus committed to them, proved our good will; for they got perquisites from the tenants. Neither such employ, nor the hiring of lands, repels our claim. Appellants absurdly assert that they only held lands yielding six Rupees yearly; in consideration of which they render the service of servants. This would not give them eight Annas each per annum." Nineteen kances of land is not a small quantity. But the support afforded to Appellants was not limited to this. They received rations and other aids. They derived *dusturi* on the purchases for the use of the family, besides the collection-perquisites. Binod and his brother were the inherited slaves of our family. The other two brothers had passed to our kinsmen on a prior division. The want of a bill of sale after the lapse of ages does not affect our right. This is proved by, continuity of hereditary service, the admission of Kirti and his brother, and the evidence adduced. I could not produce the deed of partition which my father received from my uncle, because my brother, the author of the recusancy of defendants, has possessed himself of it. But the counterpart, signed by my father and received by my uncle, was produced by his son in support of his evidence. He is a disinterested witness; for the kinsmen of defendants are his acquiescing slaves. It is true, that Kirti Narayan did not make any deposition before the Munsiff; but his brother Sri Narayan did. The case of Lok Nath Majmuadar and others, adjudged by the Sudder Dewanny Adawlut, on the 21st November, 1833, by Mr. Shakespeare, is a precedent in favor of my claim, while that adduced by Appellant is irrelevant."

On the 7th August the appeal came on for judgment before Mr. R. H. Rattray. He proposed to reverse the judgments of the Lower Courts charging costs to Respondents. The motives of this judgment were thus expressed—"Plaintiff has produced no deed to prove the assertion that Appellants are his hereditary slaves. Plaintiff alleges, that the Appellants rendered service, in consideration of house and lands for support allowed them. The defendants strongly deny this. No proof of their holding such house and lands is found in the papers of the case. Moreover were it so, still when Appellants have quitted, they cease to be liable to any claim of servitude. For the statement of Respondent himself proves that Appellant rendered service on receiving subsistence or *Nánkár*. It thus would seem that Appellants are *Bhakta Dása*, or slaves, for their food, who render service for food. On reference to Mr. Macnaghten's compilation on Hindu Law and the 2d volume of the Digest, page 247, the condition of slaves is stated thus,—that when

"the slave for his food abandons the service, he becomes free. Therefore, the Appellants having given up subsistence they are to be considered free. Several witnesses have deposed according to the purpose of Respondent; but they are his servants, kinsmen and dependents. Their testimony, therefore, is not to be believed. But if credited, their evidence does not avail the case of plaintiff: because Appellants are to be considered as having become free by relinquishment of support. The copy of Kirti Narayan's examination, before the Magistrate, is of no advantage to Respondent; for a statement before the Magistrate cannot be a proof in a Civil case."

The case was next heard by Mr. G. Stockwell on the 7th December, 1835. On perusal of the relevant papers at the suggestion of the Wakeels of the parties, his opinion concurred in that of Mr. Rattray; and he made final the judgment proposed by Mr. Rattray.

NAIR, alias NARAYAN SINGH Pauper, Appellant,

1836.

*versus*

February 4th.

RAM NATH SARMA, BISHU NATH SARMA, GOPI NATH SARMA,  
SONS OF HARKINKAR SARMA, RAM CHARAN KAR AND  
KISHEN CHARAN KAR, Respondents.

On the 7th April, 1826, in the Civil Court of Sylhet, against Appellants and Kubiswar Sarma, Respondents brought an action, on a case thus stated in their plaint. "Maya and her son Khush-hal were the slaves of Ram Ballabh Bari. In 1164 *Pargunati*, he received from Harkinkar and his brother Ram Nundan Sarma, the father of Kubiswar Sarma, the sum of ten Rupees, in consideration of which he executed to them a release of his said slaves, and Maya executed a contract of hire of herself and son attested by Ram Ballabh. The said slaves from that time served their new masters in their house. In 1174, Harkinkar under a deed of release bought Wajiri for four Rupees of her master, and married her to Khush-hal then aged 19. After sometime he removed from the house of the Sarmas, and established himself in a domicile given by them and cultivated; but he and his wife continued to do servile duties for their masters. After producing Nair her son, Wajiri died. In Assar 1200, the Sarmas bought Sitapi alias Sipi of her owner under a deed of release for one Rupee, and gave her in marriage to Khush-hal. Subsequent to the death of his parents and grandmother, Nair as slave served us, the Sarmas, who married him at our own expense to his wife Phul; and the issue of that marriage are two sons, Briju and Bouki, and a daughter Urna. His step-mother resided with him, and the whole family did offices of slaves in the family of us Sarmas. In 1231 B. S. (1824) Kubiswar, by deed sold his half share in the said slaves, for five hundred Rupees, to us Ram Charan Kar and Kishu Charan Kar. Nair denied his servitude in a petition to the Magistrate, who ordered his release. We appealed to the Court of Circuit but were referred to our Civil remedy. We therefore bring our action to establish our proprietary dominion over the said slaves, that is, Nair, his wife and children and step-mother, making them, and Kubiswar Sarma defendants, and estimating the value of the slaves in the sum of one hundred Sicca Rupees."

No. 7.

The defence of Nair, his wife and step-mother was this—"We deny that we are slaves of the plaintiffs. Khush-hal was long settled as a resident cultivator on the estate of Gaur Parshad Sarma of Nunkari. He supported himself by his labor and paid ground rent, for his house to the said Sarma; and on his death, to Subarna Devi. He died in 1205. I continued to reside with my step-mother and wife at my father's abode, and supported myself in the same manner, paying rent to Subarna. In 1224 she died. On the 9th Assin, 1232, Kubiswar Sarma broke into my house and beat me. He got from Ram Charan Kar who is an officer of the Civil Court of Dacca, two peons, and placed them on my door and attempted to take me away. I made an outcry and neighbours interposed. They continued, however, to oppress me and I petitioned the Magistrate. Kishn Charan Kar, the brother of Ram Charan, did the same. On the 2d November, 1824, the Magistrate released me. Kubiswar and Ram Charan appealed without effect to the Court of Circuit."

On the part of the plaintiffs the following two documents, in Persian, were exhibited.

Farigkati, dated 9th of the second *Jamadi* or 15th *Chet* 1164, *Pargunati* from Ram Ballabh Bari of village Kartik Aeng, in Pargunnah Bojurah, Sarkar Sylhet. "Maya, wife of Raghwan Das, and Khush-hal his son, are my slaves. I am unable to support them. I have therefore voluntarily received ten Rupees as below specified from Har Umkar and Ram Mandan Brahmins, of village Nunkar in the said Pargunnah, and have executed this deed, releasing them from their service to me (*Ajiri* state of hirelings). I engage and covenant that no claim of me or of my heirs in regard to the said Maya and Khush-hal remains. If any claim by any one be preferred, it is void and untenable. I am responsible. The deed of their hire (*Kubala* *Ajiri*) is lost: should that be forthcoming it will be false.

"In the name of Maya,..... Rs. 4

"Ditto ditto Khush-hal,..... „ 6

10"

Deed dated 15th of the 2d *Jamadi*, corresponding with *Chet* 1164, Anno Regni. "The legal and valid engagement of Maya, daughter of Narayan Das Nag, wife of Raghwan Das Bari, inhabitant of Pargunnah Bojura, now of Nunkar, in Sarkar Sylhet. I hereby voluntarily engage and covenant as follows. In consideration of ten Rupees as below distributed, from the date of these presents for the terms of sixty and seventy years service. I am adult (aged thirty years) and my son Khush-hal aged eight, have become Khas Ajirs (domestic hirelings) in the possession (*dast*) of Har Kinkar Brahmin and Ram Nundan Brahmin, heirs of Govind Ram Brahmin, on these conditions. Receiving our necessary support, we will remain for the terms defined, and render to the hirers the service of husking rice, drawing water and ploughing, bringing wood and other legal services. We will not be recusant. I have received the full consideration of hire from the hirers. This I have made over to Ram Ballabh Bari, my master, (Khawind) and having obtained his release of the relation as hireling to him of myself and son, I have made over myself and son to the said hirers."

On the 25th February, 1830, Mr. J. Campbell, the Judge of the Zillah Court, dismissed the claim with costs. The motives of his decision were thus expressed, "The deed of sale executed by Khush-hal's mother, filed by plaintiff, is limited to the terms of sixty and seventy years lunar respectively. This action is after the expiration of the longest term. Now, after the term of hire, the object thereof

“ ceases to be subject thereto. The deed of hire has no mention of the wife and issue of Khush-hal, and cannot therefore support plaintiff's claim. There is no averment of the origin of the alleged slavery of the defendant Phul. I hold that the claim should be dismissed with costs.”

The plaintiffs preferred an appeal to the Commissioner of Assam, who had succeeded to the authority of the Court of Appeal in the place where the parties resided. This appeal was defended by Nair alone. On the 12th December, 1833, Mr. Charles Smith holding the above office, passed this judgment on the appeal—“ Nair, his step mother, his wife and children, are the hereditary slaves of the Sarma family. They received *Nānkār* lands. Kishen Chundan and other witnesses prove that the defendant Briju kept watch with other slaves at the marriage of that witness's slave girl, and that Nair also consorted with slaves; whence his servile state is presumable. It is true in the deed of hire limited terms are defined and no mention of descendants is made: but I do not concur with the Zillah Judge, that the freedom of descendants is thence deduced. I consider the limitation of time, as being merely in conformance with custom and to ensure, the exemption from labor in old age, not freedom. The Respondent moreover was born within the period of the term. Therefore in conformity with the real meaning of the *Vyavastha* of the Pundits of the Nizamut Adawlut which the Appellants produced,\* the omitted mention of issue of the hired slaves in relation to the hirer, is no argument of the freedom of Appellant and his family. The defendants, though given time so to do, failed to advance proof of their liberty; and no deed decisive of their exemption from the claim has been produced. Let the appeal of Appellants be decreed, and let Nair, with his wife, children and step-mother, be again liable to serve Appellants. Costs of both Courts are payable by Nair and his step-mother.”

The Appellant as pauper preferred a special appeal from this decision to the Sudder Dewanny Adawlut, which was admitted on the 3d April by Mr. Rattray, a Judge of the Court. The grounds of admission were thus expressed—“ The foundation of plaintiff's claim is the deed of hire executed by Mâyá and the plaintiff was filed after the expiration of the time therein limited. Neither by the regulations, the Hindu law and usage, nor in equity, can it be legal that, when a person has assigned himself on hire, for a defined time under such deed of hire, his self, wife and issue should pass as owned and hired persons, and be liable to render service to the issue of the hirers. The decision appealed from is also contrary to the decision of this Court on the case of Khawáj, Mánik and others.† The case therefore requires further consideration.”

On the 18th January 1836, the case came on for judgment before Mr. Stockwell. His judgment was recorded in these terms—“ From the proofs of plaintiff, I am not sufficiently satisfied to induce me to adjudge the claimed slaves with their issue to perpetual slavery. The witnesses depose generally to this, that they presumed the defendants to be slaves from services performed. But services are of various sorts; nor is every servant a slave. The deed of hire wants authentication. Moreover a term is limited therein, and the object of such limitation is, that the performance of the condition be limited to the duration of the term. The witnesses assert usage to be this, that the person who is the object of the contract of hire does not become free at the expiration of the period. But such loose and

\* The Vyavastha referred to, which was exhibited on part of Respondent, is annexed.

† No. 2 of this Appendix.



“vague assertion is entitled to no weight. Respondents allege the rent-free occupancy by defendants of land and dwelling as proof of slavery; but the witnesses depose to the contrary. I propose to confirm the decision of the Zillah Court, and reverse that of the Commissioner.”

The judgment proposed by Mr. Stockwell was passed, on the 24th February, 1836, by Mr. Braddon who concurred.

### CASE PUT TO THE PUNDITS OF THE NIZAMUT ADAWLUT, CALCUTTA.

A, an inhabitant of Sylhet, wishes to sell B, his female slave, with her four sons and daughters, having fixed the price. The slaves have petitioned the Court to this effect—“We are willing to serve our master, but he, out of enmity, has made this arrangement with the intending purchaser, that he should remove us to another country, and re-sell us in different places.”

*Question 1.* According to the Hindu law current in Sylhet, is such an objection of the slaves in respect to a sale under above circumstances, valid or not?

2. If valid, can the slaves designate another purchaser selected by themselves?

3. Or, can they obtain their emancipation, if able by any means, to tender their fixed prices?

### ANSWER OF THE PUNDITS VAIDYA NATH MISR AND RAM TANU.

Fifteen slaves are propounded in Hindu law. We infer from the terms of the case, that the slaves referred to are of the class denominated *Griha-jata*, or house-born. Amongst the fifteen, there are the house-born, the bought, the obtained, (by gift) the inherited, the self-sold. The emancipation of these five, does not arise without the will of their owner. If the owner (inclined to sell his slaves) desire, the discharge from him, of slaves (of those five classes) by means of price fixed by himself; then on account of his dominion and power, he may sell his slaves, though desirous of serving their master. But, if by the sale to the purchaser selected by the master, grievance of the slaves should exist, their release from him ought to be held established by legal reasoning,—the owner having received the price settled by himself, either from a buyer designated by the slaves, or any other buyer. For thus the owner suffers no loss. But slaves are never emancipated from slavery by paying the price fixed by their master from their own wealth; for the owner has dominion in the property also of his slave. This exposition conforms with the *Vivāda Bhāṅgār-nava*, *Daya Krama Sangraha*, *Daya Bhaga* and other books current in Sylhet, included in Bengal.

## AUTHORITIES.

Text of Nareda cited in the *Vivada Bhagarnava* and *Daya Krama Sangraha*.

I. "One born in the house, one bought, one received, one inherited, one maintained in a famine, one pledged by a master,"

2. "One relieved from great debt, one made captive in war, a slave won in a stake, one who has offered himself in this form "I am thine," an apostate from religious mendicity, a slave for a stipulated time,

3. "One maintained in consideration of service, a slave for the sake of his bride, and one self-sold, are fifteen slaves declared by the law.

II. Gloss thereon in the *Daya Krama Sangraha*.—"Born in the house."—"Born of a female slave."

III. Passage in the *Daya Krama Sangraha*. "There is no emancipation of these four slaves—the house-born and the rest, and the self-sold, without the indulgence of their owner."

IV. Text of *VRIHASPATI* cited in the *Vyavuhara Tatwa* and other books. "A decision must not be made solely by having recourse to the letter of written Codes. The law must not be expounded by mere adherence to written texts. For if judgment passed without reference to reasoning there might be a failure of justice."

5. Text of *MENU* cited in the *Vivada Bhagarnava*, *Daya Bhaga*, *Daya Tatwa* and other books. "The wife, the son and a slave are considered without property. What they earn, is his only, to whom they belong."

LOKNATH DATT MAJMUADAR AND JAINATH DATT MUJMUADAR, HEIRS OF LAKHINARAYAN DATT, Appellants, Sudder Dewanny Adawlut.  
1830.

17th May.

versus

KUBIR BHANDARI, KISHWAR DEB, SAHA DEB AND MAHESWARI,  
Respondents.

On the 23d March 1830, in the Zillah Court of Mymensingh, against Kubir Deb, his daughter, Kishwar Deb and Saha Deb,—Lakhinarayan Datt instituted an action, the cause of which was thus stated in his plaint—"Kubir Deb is descended from an hereditary slave of my family. Kishwar Deb and Saha Deb are his sons, and he has one daughter, of whom I do not know the name. Kubir and his family have always rendered to my family services of a slave,—holding of me land and a house for their support. In 1229, they left their abode and went to another village. They continued however in possession of the land and house, and to render service till Asin 1233. Incited by Deva Datt and Ganga Datt from the beginning of 1234 they left my service. I therefore sue them to establish

No. 8.

“ my dominical right, and reduce them to servitude. I estimate the cause of  
 “ action in the sum of fifteen Rupees, loss sustained; and I associate Deva Datt and  
 “ Ganga Datt as defendants.

Kubir alone appeared; and made this defence—“ I deny that I am the heredi-  
 “ tary slave of plaintiff or held of him any land for my subsistence. When I lived  
 “ in his village, he allowed me the use of some land in place of wages, and I occa-  
 “ sionally served him, but not as a slave. For the last twelve or thirteen years, I  
 “ have lived in another village, where I am treated as a Ryut. It is not true that  
 “ I hold lands of plaintiff and rendered service till 1233. Ganga and Debb Datt are  
 “ made defendants that I may lose the benefit of their evidence.”

In his reply, plaintiff alleged these facts—“ Srimant, defendant's father, Sri  
 “ Narayan, Chandra Narayan and Ramu, sons of Sena, are the hereditary slaves of  
 “ my family. In a partition Srimant and Sri Narayan fell to my father's lot, Chandra  
 “ Narayan and Ramu to the lots of Mod Narayan Majmuadar and Ramdhan Maj-  
 “ muadar, my uncles, respectively. The said slaves continued to render service; and  
 “ in 1229, Srimant, Anwur, son of Chandra Narayan, and Ganga and others, sons  
 “ of Ramu absconded. They went to village Ojunpur. The sons of Ram-  
 “ dhan Majmuadar obtained a judgment against Dina, Gunga and others their  
 “ slaves, and they reverted to their service; and so did Anwâr to that of the sons of  
 “ my uncle Mod Narayan Majmuadar. Owing to deficient accommodation in his  
 “ original house, Kubir resided at Ojunpur; and till Asin 1233, continued to hold  
 “ the house and lands assigned him by me and to render service to me. He marri-  
 “ ed his sister, daughter, and other females of his family, on my discharge first  
 “ obtained, making me the established present. His marriage and that of his sons  
 “ were effected at my cost.”

Kubir filed no rejoinder.

On the 27th August, 1833, the Principal Sudder Ameen, to whom the case had  
 been referred, passed judgment in favor of plaintiff, and directed that defendant and  
 his children should render service to plaintiff as slaves. Each party to pay their  
 costs. The Principal Sudder Ameen remarked that defendant had not supported  
 his defence, with any proof,—while plaintiff had established by oral and documentary  
 proof the facts charged in his plaint and reply. Kubir had prosecuted Nar Sing  
 Majmuadar and others before the Magistrate, and on his examination adduced by  
 plaintiff had stated that plaintiff's cousins were his masters.

From this decision, Kubir, to the Zillah Judge, preferred his appeal, which  
 was defended by Loknath, the son of plaintiff, who had died. On the 30th July 1833,  
 the Zillah Judge reversed the decree of the Principal Sudder Ameen, making costs  
 payable by the parties respectively. His motives were thus stated—“ Plaintiff's  
 “ action is estimated in the amount of loss for services withheld. It is not admis-  
 “ sible, because not brought within one year from absence of defendant. Plaintiff  
 “ files no deed proving the servile state of the defendant. His witnesses, who allege  
 “ that defendant rendered service to plaintiff and held of him lands for support,  
 “ depose on hearsay. Moreover it is not equitable that a family in perpetual  
 “ descent should be slaves in consideration of *Nânâur* lands for support.”

From this judgment the application for special appeal preferred by the  
 sons of Lakhi Narayan Datt to the Sudder Dewanny Adawlut, was first heard by Mr.  
 H. Shakespear. In it, the name before unknown of Kubir's daughter, was stated  
 to be Maheswari. On the 21st November, 1833, he referred to the Pundit of the  
 Court, petition of the appellant and decrees of the Court produced, requiring him

to state whether proofs, such as those recited in the decree of the Principal Sudder Ameen, if adduced by plaintiff, would be sufficient legal evidence, under the Hindu law, to establish the slavery of defendant. The reply of the Pundit was to this effect—  
 “The proof adduced by the plaintiffs to establish the fact of slavery, as set forth in the decision of the Principal Sudder Ameen, is sufficient. For it seems that the defendants are inherited slaves, and this is one of the fifteen legal classes of slaves.” In support of this opinion the Pundit cited the text of Narada, cited in various books, in which the “slave inherited” is enumerated.

On the 4th March, 1836, Mr. Shakespear admitted the special appeal, because with reference to the answer of the Pundit the accuracy of the judgment of the Zillah Judge seemed doubtful.

On the 13th April, 1835, the case came before Mr. G. Stockwell. He wished to ascertain if any precedent existed amongst adjudged cases, in which the claim to reduce to slavery had been entertained, in which the alleged slaves were not associated with other defendants. He doubted the cognizability of such claim. The reference to the Serishtadar produced this report. “I have searched the office. I have referred to the case of Kewal Ram Deo, and others, Appellants, *versus* Golak Narayan Ray.\* In that Respondent sued Appellants to reduce them to his dominion as his slaves; and others were not associated as defendants. Plaintiff succeeded by the judgments of the Zillah Court and Court of Appeal; but these were reversed in this Court. Seemingly then, there has not been any appeal, in which the claim of a plaintiff to establish his dominion over a slave has been sustained in this Court. Of course then occasion to enforce such judgment has not risen.”

On the 17th May, 1836, the case came on for judgment, when Mr. G. Stockwell affirmed the decree of the Lower Court with costs. His motives were thus expressed—“The report obviates my doubt. I find that the testimony of Appellant’s witnesses examined to prove Respondent’s slavery rests on hearsay, which therefore is insufficient. Plaintiff’s claim is this—that defendants are slaves in consideration of lodging and lands for support. Now if they received the same, it is clear they have abandoned such lodging and support. In the case,† No. 120, 1833, on the 7th December, 1835, I passed a decree in concurrence with the opinion of Mr. R. H. Rattray. In conformity to that precedent, Respondents are slaves of the class of slaves for their food. On surrender of the lands held they are entitled to emancipation. The Zillah Judge has ruled that the claim is not cognizable, because not brought within a year. In this I do not concur. I suppose he rests his doctrine on Sec. 7, Reg. II. 1805, which is irrelevant.”

\* No. 3 of this Appendix.

† No. 6 of this Appendix.

Presidency Nizamut Adaw-  
lut, 2d March, 1837.

SHEKH HAZA'RI, and others, Appellants,

*versus*

DEWAN MASNAD ALI, Respondent.

No. 9. Shekh Lal Mahomed, Phutia and Luchhoo, of Sarail, in Tipperah, by petition claimed the protection of the Magistrate against Musnad Ali, Zamindar of a section of the Pargana. They alleged they were free tenants, and that the Zamindar restrained and coerced them, though desirous of emigrating. On the 7th May, 1836, Mr. Aplin, the Magistrate, after taking the oath of Hazari, to the truth of petition, issued this order to the Police Darogah, "if the persons specified in the petition "are restrained, or do not wish to remain, release them." On the issue of this order, Shekh Hazari, Ahsan Ullah, Shekh Bani and others, likewise claimed protection of the Magistrate for selves and families against the said Zamindar.

The Magistrate passed successive orders to this effect, "that if the persons "mentioned in the petition wished to quit the place where they were they should "be allowed to go." The Darogah was ordered to report, after enquiries, as to certain effects and houses which the petitioners claimed.

On the part of Masnad Ali also several petitions were presented to this effect, that,—the petitioners were his house-born slaves,—the agent of the other section of the pargana had excited them to combine,—and in consequence of the Magistrate's order two hundred and fifty, male and female slaves, (to him belonging) had tumultuously broke out, to his disgrace.

From the above order of the Magistrate, Musnad Ali appealed to the Commissioner of Circuit (Mr. Dampier;) who after sending for the papers on the 19th August, passed the following order. "The persons affected by the Magistrate's orders, are "stated to exceed eighty. It was wrong in the Magistrate, without enquiry, to pass his "successive orders for release of the petitioners and their families. They appear to "be the hereditary slaves of Musnad Ali: for in the petitions, they are designated "*khana-zads* and *khana-bands* of Musnad Ali. It appears that a numerous band "tumultuously broke out from the house and adjoining premises of Musnad Ali. "This is not less than a riot. Now a riot tends to great mischief which is subversion "of good order. For in this part of the country, good order in respectable families "depends on such inherited persons born and brought up in the family. In par- "ticular in the families of Hindus and Muslims, the abiding of such inherited "persons is not illegal. On the contrary, there are indications of the legality thereof. "It is usual for respectable people to have this class of people in their houses: it "is not a new custom, that a sweeping order for emancipation should be passed "without great mischief, or that the Magistrate should interfere summarily on their "petition. If any extreme oppression, contrary to custom, were inflicted on this "class of persons, and that should lead to disturbance and be subversive of good "order, the Magistrate, (if in such case competent by Regulation to interfere,) "may so do. Under every view, the orders are illegal and should be amended. I "reverse his orders directing the release of the parties and their families."

From this order Shekh Hazari, Phutia, Lal Mahomed, Ahsan Ullah and Bani and others appealed to the Nizamut Adawlut. Their petition was to this effect. "The "order of the Magistrate directed release of us and families. We are ruined by the

“ reversal thereof. Musnad Ali contemplates perpetual imprisonment of us and our families. We are not his bought slaves: yet he always seizes and beats us; he does not allow us to go any where, nor to attend the festivals of our class-fellows. By the law and practice of this Court, a rich person is not allowed to restrain an unwilling poor man as his slave or servant. Regulation III. of 1832 was passed merely to prevent sale of slaves. According to the 9th Chapter of the Hidayah, a Muslim, living in a Mahomedan country, not a “ Harbi captive,” is not the slave of another. The claim of the Zamindars is, therefore, contrary to Mahomedan law. We refer to case of Khawaj and others, Appellants,\* and to the case of Kewal Ram Deo, Appellant, *versus* Golak Narayan Rai.† These invalidate any claim on another as slave.”

On the 2d March, 1837, Mr. D. C. Smyth, Judge of the Nizamut Adawlut, after sending for various papers, passed this judgment—“ The orders of the Magistrate and Commissioner have been passed without any previous enquiry. When Hazari and others charged Musnad Ali with assault, and alleged their freedom, the Magistrate took *his* affidavit and directed their release. As the agent of Musnad Ali alleged that the petitioners were his slaves, the Magistrate should have instituted a summary enquiry as to the issue of fact. If he found petitioners were free, he should have directed their release. If he found them to be ‘ *ajir*’ and house-born, he should then have passed such order as might appear fit under the law and local usage,—adverting to the Islam of the petitioners. Moreover the Magistrate at all events should have investigated the assault and seizing of which petitioners complained,—whether they be free or slaves. Let the orders of the Magistrate and Commissioner be reversed, and the former proceed as above directed.”

RAM GOPA'L DEO alias GOPA'L BHANDARI, Appellant,

*versus*

GOKAL CHANDRA and others, Respondents.

Sudder Dewanny Adawlut.  
1839.

September 30th.

This appeal arose from a suit, which Respondents on the 10th March, 1828, instituted in the Civil Court of Maimunsingh against Appellant and others. They alleged that, Appellant, and his brother RAM HARI, the wife of each of them, and the son of Appellant, were the hereditary slaves of the family and the joint property of them and their coparceners of BRIJNA'TH and BHAJUNA'TH and TARINI DASI. The plaintiffs alleged that their share in the slaves considered as part of the joint undivided property was three parts out of five, and they sought to establish their dominical right and power to that extent. They estimated the cause of action in the sum of fifteen Rupees,—the assumed loss by service withheld. The plaint stated that the persons claimed as slaves had continued to render service to them as joint owners up to 1224 (1817) when they, excited by their coparceners and

No. 10.

\* No. 2 of this Appendix.

† No. 3 of this Appendix.

others who harboured them, became recusant. The plaintiffs, therefore, associated their coparceners and others alleged to have aided and conspired with the claimed slaves as defendants. Of the defendants, RAM GOPAL alone appeared to defend. His defence was this—"I deny the claim of plaintiff. During the scarcity of 1194 *Fusli*, "HA'RI RA'M DEO, father of me and my brother RAM HARI, remained some time "with JAGANA'TH the *Zillahdar*, the father of defendants BRIJNA'TH and BHAJUNA'TH. "He supported himself by weaving. After some time, he established himself, "marrying at his own expence. So also, since our father's death, we served at "different places and married at our own cost. Before the *Zillahdar* died, he "requested us to manage for his minor sons. We acted as their agents."

On the 30th December, 1838, after evidence received the *Sudder Amin*, KA'ZI JELA'L-UDDIN, to whom the case had been referred, passed judgment in favor of plaintiffs. He found the facts as charged by plaintiffs and directed that the persons claimed should render service of slaves to plaintiffs in the proportion of their interest. The grounds were thus stated—"Khushhal had five sons,—the "plaintiff GOKAL CHANDRA, and four others. The other plaintiffs represent two of "the sons. The defendants BRIJ NATH and BHAJUNATH represent a fourth, and "TARINI is the widow of the fifth brother. HARU, the father of RAM GOPAL, and his "brothers was bought while the family was joint and undivided. Indeed, the "patrimonial lands are not divided, though for the last few years there has been a "separation of mess. The defendants, charged to be slaves, rendered services to "the plaintiff and other defendants up to 1234. In that year, they ceased to render "service to plaintiff,—continuing however to render the same to BRIJNATH and his "brother and others. Plaintiffs have proprietary dominion over the slave defendants "as owners of three out of five shares." The costs were made payable by BRIJU NATH and BHAJU NATH and MOHUN KISHN defendants who harboured the slave defendants.

The appeal, from this decree, was heard by the Register of the Court who on the 28th June, 1830, reversed the judgment of the *Sudder Amin* substituting that of *Non-suit*. He remarked that dispute existed between plaintiffs and three defendants their coparceners, as to extent of interest, and that on account of this dispute the joint estate had been attached.

The object of the suit was to obtain a judgment settling shares, which would avail as to the real property. Moreover the bill of sale though required, had not been produced. The Register pointed out that plaintiffs should first sue to settle their shares in the joint real estates.

From this decision, the Respondents (plaintiffs) preferred a further or special appeal, to the *Zillah Judge*, Mr. G. C. CHEAP; who on the 7th June, 1833, set aside the decision of the Register directing that the case should be *de novo* tried and heard in appeal. Mr. CHEAP remarked that plaintiffs had sued to establish their right as to a share in the proprietary dominion over slaves; and difference existed in the form and essentials of such an action and an action for ownership in land.

On the retrial on the 17th December 1833, before Mr. CHEAP the plaintiff exhibited two deeds,—a bill of sale purporting to have been executed by JYTI DAS in 1193 B. S.,—and another, on stamp, purporting to have been executed by AK'HI NARAYAN DAS and others on the 16th Bysack, 1222. By questions put to the *Wakils* of the defendant RAM GOPAL, it appeared that plaintiff and some of the defendants charged as harbourers of the alleged slaves were joint proprietors of

real property,—though collision as to extent of interest existed. Mr. G. C. CHEAP amended the decision of the *Sudder Amin* thus—“Let the appeal be dismissed and let Respondent on appraisement of the price of the slaves recover rateably. Let them, on execution of the decree pray appraisement. Parties pay their own costs in both Courts.” His motives were thus expressed—“I refer to the evidence on the part of the plaintiff. It appears that Appellants and other owned persons, rendered to plaintiffs and their coparceners, services of slaves and received support. But without doubt TARINI DAS and other coparceners of plaintiffs excited the slave-defendants to refuse service. Though indeed, the fabrication of the bill of sale, filed by Respondent, is beyond doubt,—still I consider all the circumstances of the case,—that is to say, that slaves are included in personal property and plaintiffs may sue to establish their interest in real property in the same action: but how the defined share of three-fifths of slaves is to be divided,—I do not know, and I marvel at the order of the *Sudder Amin* in this regard. Moreover if provision is to be made in this regard by way of instruction, laying down the law, still justice did not require that any judgment incapable of execution should be passed. Considering all this, I amend the judgment of the *Sudder Amin*.”

From the judgment, Appellant on the 13th of March, 1834, personally moved the *Sudder Dewani Adawlut* for admission of a special appeal, presenting with his petition copy of the *Zillah* Judge's decision. On the 6th of May, Mr. R. H. RATTRAY, a Judge of the Court, before whom the application was heard, directed the papers to be referred to the *Pundit* to declare whether the decisions passed conformed with the Hindu law as received in Bengal. The *Pundit*, in reply, stated that the decision of the *Sudder Amin* was right,—quoting a passage from the *Daya Bhag* whereby property not partible is divided in use.

On the 3d June, Mr. R. H. RATTRAY, considering the above exposition, remarked that the answer did not suit the reference. It is apparent that HARU only was bought as a slave, not his family and descendants. Nevertheless the decision of the lower Courts establish defendants' slavery. The *Pundit* is to explain the law with reference to this. His further exposition was to this effect—that the state of the descendants of HARU would depend on the clause of the bill of sale. If they were expressly excluded they would be free, not otherwise. In that case, they would not fall in any one of the fifteen classes of legal slaves but within the class of the coerced. But if not expressly excluded the progeny born subsequent to the purchase is an accession to the property bought and belongs to the buyer. The *Pundit* declared this opinion to conform with the law laid down in the Bengal Authorities.

The texts cited in support were these. I. Text of Narada which enumerates\* the fifteen classes of legal slaves. II. Narada. Text prohibiting† kidnapping.

On the 29th July, 1834, this second *Vyavastha* was considered by Mr. RATTRAY who proposed to admit the special appeal. Mr. RATTRAY remarked “although under Section 28, Regulation V. of 1831, the *Zillah* Judge's decision is final, still considering the objections of the applicant, the nature of the case, the points deducible from the decisions of both Courts, and also the *Vyavastha* of the *Pundit*, I think the case merits further consideration and without admission

\* Digest B. III. Chapter I. verse XXIX.

† Digest B. III. Chapter I. verse XL.



"of a special appeal, the Court cannot be satisfied. If Appellant within two months observe all the conditions, a special appeal will be admitted."

On the 5th May, 1836, Appellant had not complied with the conditions of appeal, when Mr. R. H. RATTRAY, directed that he should be summoned by notice to appear and conform within six weeks. Notwithstanding Appellant had acknowledged notice, and undertaken to appear, still on the 11th August, 1836, he had failed to do so. In consequence, Mr. RATTRAY directed the case to be struck off the file of pending cases.

On the 10th December, 1836, Appellant moved the Court, to revive his appeal. He excused the delay in performing conditions by urging that on his return home to get security, he fell sick for one and half years; and that he supposed that the delay of six weeks was to be counted from his acknowledgment, and that he had accordingly arrived on the 12th August, one day after the case had been struck off. As without his return home he could not procure bail, and was provided with none, he returned to procure it without moving the Court to revive his appeal, which he now did with necessary security.

On the 30th September, 1839, the case being revived came on for trial before Mr. ABERCROMBIE DICK, a Judge of the Court, when he ruled that the decisions of the *Sudder Amin* and *Sillah Judge* were imperfect, and directed the case should be restored to its number, and after taking further evidence, decided on its merits. Mr. DICK remarked,—“the Judge write that the bill of sale produced by plaintiff is without doubt fabricated. It was wrong in him to decide the case merely on “the evidence of a few witnesses taken before the *Sudder Amin*.”

Sudder Dewanny Adawlut.  
1840.

SHEKH TAKI, and others, Appellants.

April 22d.

No. 11.

On the 15th of May, 1799, in the Civil Court of *Sylhet* MUHAMMUD KADIR of *Safur Gurh*, in that *Sillah*, against HATLA, SANAI, ADHUM and POKAI (*Muslims*,) instituted an action, of which the object was to establish his dominion over, the defendants as his slaves. He alleged that they were his hereditary slaves and had recently deserted. HATLA was brought in on the first process, and imprisoned on defect of security given: but he was enlarged when prosecutor failed to provide for his subsistence. The other defendants evaded; and the case was tried *ex parte* as regarded them.

HATLA in his defence, denied his servile state.

On the 30th November, 1799, Mr. CHRISTOPHER ROBERTSON, the Judge of the *Sillah*, passed this judgment. “It appears from the evidence of two witnesses examined on behalf of plaintiff, that defendants are the hereditary slaves of plaintiff. They, and their father, have rendered servile offices to plaintiff for more than twelve years; one witness says twenty-one, the other thirty years. It is decreed that they will continue to serve plaintiff as slaves. If defendants can prove that plaintiff ill uses them, they may obtain redemption on payment of three-hundred kahuns of cowries,—the valuation in the plaint. Plaintiff will recover costs of suit from defendants.”

In the year 1827, in the Civil Court of *Sylhet*, MUHAMMAD KADIR brought a second action of which the object was to establish his dominical right against the

same HATLA, SANAI, and other persons, their kinsmen. The cause of action was estimated in the sum of one hundred and forty-four Rupees. The plaintiff alleged "that, since the former decree, the former defendants with their families attended and rendered me service. In 1225 (1811) SANAI, HATLA and the other members of the family deserted. Some have settled at village *Chand Haveli*, in Purgunna *Lakara Sate*, the property of MURARI CHAND. These were SANAI, HATLA, UJHAI, BAZ and TAKI the uncle's sons,—and BAHADUR, the whole brother,—of SANAI, WASI, the female ALU and AGHUN, children of HATLA's sister. Others have settled at village *Rand Bari, Purgunna Baldar*. These were MUFTI, the son of POKAI's sister, and KHALIL his whole brother. SHEKH RAHMUT, who is the son of ADHUM's sister, has settled at village *Pattu Gaon*, Purgunna *Doadi*."

Of the defendants KHALIL, admitted the claim of plaintiff, and the rest did not originally appear. After evidence received, the *Sudder Amin* GHOLAM YAH, diverting to the former judgment, on the 10th July, 1828, passed a decree in favor of plaintiff's claim.

From this decision, an appeal was preferred to the *Zillah Judge*. The parties Appellants were SHEKH HATLA, BAZ, TAKI, WASI, AGHUN, ZAKI for selves and as guardians of LUFU, the minor son of SANAI who had died. MARIAK, the widow, and NAZIR and WAZIR, sons of UJHAI for selves, and NASIR, a third son of UJHAI, ZAIN BIBI the widow of BAHADUR for self and SHEKH MUKIM her minor son, ALU and SHEKH RAHAMAT. The Appellants alleged that they were free cultivators. GOLAM KADIR having died was represented by his widow RAJAB BANU and his adult son MUHAMMUD NADIR. Pending appeal, the female CHARU and others, kinsmen of defendants, intervened. They alleged that they, and defendants were the hereditary slaves of the plaintiff, and prayed judgment against defendants,—lest they suffered inconvenience from the emancipation of defendants who would cease to consort with them.

The Principal *Sudder Amin*, to whom the case was referred, after taking evidence on both sides, confirmed the decision of the *Sudder Amin*. He observed that "it is true that the witnesses of Appellants support in a manner their case: but in 1799, a judgment was obtained by plaintiff against the defendant HATLA, and others, and the plaintiff's witnesses establish that the defendants are the hereditary slaves of plaintiff. Though the case was long pending before the *Sudder Amin*, yet Appellants filed no documents, such as releases, shewing that they were free cultivators."

On the 13th June, 1835, the *Zillah Judge* admitted the special appeal from this judgment for which application had been made. The Appellants were TAKI 2d, and ZAKI 2d, sons of HATLA, (who had died) BAZ, WASI, AGHUN, for selves and LAFU minor son of SANAI, who had died, NAZIR and WAZIR sons of UJHAI, for selves and minor brother NAZIR, ZAIN the widow of BAHADUR, for self and minor son MUKIM, and ALU female. The Appellants urged—"We are free. In 1217, B. S. we left our location on plaintiff's Estate and settled on the Estate of MURARI CHAND; whose discharges for rent we hold. The former decree, on which the *Sudder Amin* relies, does not shew what ancestor,—and of which defendants,—became the slave of any, and what ancestor of plaintiff,—and how." The Judge admitted the special appeal with reference to the disputed issue of fact in regard to the year in which defendants left the Estate of plaintiff; which fact did not appear to his judgment to have been sufficiently investigated.

The widow and sons of the plaintiff, being summoned, defended the appeal. On the part of Appellant were exhibited various receipts for rent and it was alleged that similar documents obtained from plaintiff had been burnt. Mussamat NASHIA, the mother of TAKI and ZAKI, intervened by petition, stating that she was ready to serve plaintiff's family, but was grieved for her sons. MARIAK, by petition, alleged that she joined her sons WAZIR and NAZIR in appeal, but, since it was dismissed, had attended on plaintiff, her master. But she felt for her sons, and if they were declared free by the Court, she hoped to be released also. After further evidence taken as to the disputed point noticed, Mr. HENRY STAINFORTH, the *Zillah* Judge, on the 26th of December, 1838, passed judgment in these terms:—"I do not credit evidence of defendants' witnesses, adduced to prove the emigration in 1217, whereby the claim would be barred by rule of limitation. Were the fact so, defendants would have pleaded it in the original trial: so also would they have charged it in their first petition of appeal. The three witnesses, adduced by defendants in first appeal, do not depose consistently as to time when the family of the defendants emigrated from the Estate of plaintiff. The witnesses of plaintiff prove that the desertion occurred about nine or ten years before suit. Consequently the claim is not barred by rule of limitation. BHAGU RAM DATT, the Agent of MURARI CHAND, deposed that the defendants located themselves on his master's Estate in 1217, but MURARI does not specify any precise time. The assertion of defendants, that they were settled as *ryots* on plaintiff's Estate, was not proved by any deed; and the asserted loss of receipts by fire is a pretext. Defendants are proved to be hereditary slaves of plaintiff by the evidence and by the decree of 1799 above-mentioned. Of the original defendants HATLA had died, leaving sons TAKI and ZAKI. SANAI had died, leaving an adult son also called ZAKI, and LUFU, a minor. UJHAI had died leaving WAZIR, NAZIR and NASIR—his sons. BAHADUR had died, leaving a widow, and MUKIM, a minor son. I affirm the judgment of the Lower Courts. Let Appellants, MUFTI, KHALIL and SHEKH RAHMUT be made to serve Respondent; and so also MURIAK, widow of UJHAI, if she do not voluntarily serve. As to the unadult defendants there is no need to issue any order. Parties will pay their own costs."

On the 6th April, 1836, a petition by way of appeal, on the part of the nine Appellants, was presented to the *Sudder Dewani Adawlut*. The petitioning parties were TAKI, ZAKI, sons of HATLA, BAZ, WASI, AGHUN, TAKI, NASIR, ZAKI 2d, and ALU. They prayed interference of the Court to procure them liberty. The substance of their petition was this. I. The claim of plaintiff was barred by lapse of time as we proved. II. SHEKH ZAKI and others are our kin. They also, in 1217, located themselves with us on the Estates of MURARI CHAND. NAWAB ALI, brother of MAHAMMUD KADIR, sued at the same time to establish his dominion over them. They exhibited the Baboo's receipts, and their witnesses by the Judge were credited as to their location on his Estate in 1217,—more than 12 years before suit and the decisions of the same *Sudder Aumin* and Principal *Sudder Aumin* were reversed on the 15th September, 1835. IV. The decree of 1799, on which *Zillah* Judge relies is of no avail. That decree resulted from a vindictive suit of plaintiff who resented the emigration of the defendants as free tenants. No evidence was taken on part of defendants. The decree too provides for redemption of defendants. It was this clause which caused defendants to acquiesce. V. No other proof shewing the origin of our alleged hereditary slavery was adduced. The Judge first notices this. It cannot be justice

"that like cattle and quadrupeds we should be coerced into slavery and be utterly ruined. VI. Under the Muslim law infidelity and capture in war are essentials to legal dominical power. We refer to the *Precedents of the case of SHEKH KHAWA* and others,\* also to the case of *NAIR† alias NARA'YAN v. RAMNATH SARMA*, and others. As contrary to Muslim law and the regulations, a claim to slaves was dismissed. We refer also to *Macnaghten's Mahommedan Law*, page 312, "No. 1022 *Constructions*, and Section 14, Regulation III. of 1793."

On the 3d June, 1839, the application was heard by Mr. J. E. M. REID, a Judge of the Court, when it appeared to him that the judgment of the *Zillah* Judge on the special appeal was final and no further appeal was admissible. But it was urged on the part of the applicants, that notwithstanding Section 28, Regulation V. 1831, in the case of *RAM GOPAL v. GOPAL CHANDRA*, an appeal from a decision in special appeal had been admitted by Mr. R. H. RATTRAY, another Judge, on the 29th July, 1834, with reference to this, that the freedom or servitude of Appellants was the issue of the case. Mr. REID required production of copy of the *Rubakari* of Mr. RATTRAY. This accordingly being produced, Mr. REID resumed consideration on the 26th February, 1840. He remarked that the appeal of *RAM GOPAL* was admitted as a third or special appeal by Mr. RATTRAY, with reference to the subject matter of the action,—notwithstanding that under Section 28, Regulation V. 1831, the *Zillah* Judge's decision, on an appeal from the *Sudder Amin*, was final. The present case was decided in special or second appeal by the *Zillah* Judge, and the application was really for a third appeal. Mr. REID added "I do not find from the circumstances of the case any special ground for interference. To consider the subject matter as a sufficient reason seems contrary to Section 28, Regulation V. of 1831." Mr. REID postponed final order that he might consult his colleagues; and directed the *Serishtadar* to report if any other Judge had joined in Mr. RATTRAY's order.

In the case which Mr. REID submitted to the Court at large, he thus wrote,—  
 "While I was preparing a memorandum of this case for the English sitting with a view to take the opinion of the Court as to the propriety of any interference with it, we have received the sentiments of the Western Court and Government on the subject. The Western Court now hold the interference of the *Sudder Courts* to be barred, wherever the laws declare the order of the *Zillah* Judge to be final; and the Government, to whom in consequence of a difference of opinion between the two Courts, the papers were referred, concur with the Western Court. But it must be observed that it has been the practice for the *Sudder Courts* in virtue of the general powers of control vested in them to interfere in such cases, wherever excess of jurisdiction, manifest illegality, or gross and glaring irregularity, may be apparent on the proceedings of the Lower Courts. (See *Constructions* Nos. 1003, 1045 and 1113.) In the precedent cited, no such special ground is stated to have induced the interference of the Court; I therefore conceive that is not incumbent on me to follow it in the case now before me. On this point, I solicit the opinion of the other Judges, and also as to the mode in which I should proceed. My own opinion is, that I should,—by an order in the native department, reject the prayer of the petition, (without reference to the pleas urged by the petition, which can only be listened to when

\* No. 2, of this Appendix.

† No. 7, ditto ditto.

“an appeal is admissible) as beyond the competency of the Court to grant,—and  
“ (as this order would be contrary to the precedent cited,) send on the case for  
“ another voice.”

P. S.—“ I understand that the case of Ram Gopaul Deo having been taken up  
“ in regular course by Mr. DICK, the decisions of the Lower Courts have been  
“ annulled, and the case referred back for further enquiry.”

Mr. REID's colleagues, Mr. RATTRAY, Mr. TUCKER and Mr. LEE WARNER  
concurred in the opinion by him expressed. Mr. RATTRAY remarked that the  
opinion expressed by Government was decisive: and Mr. LEE WARNER concurring  
added “that until a new act was passed, the Court could not interfere.” On the  
22d April 1840, the report of the *Serishtadur* being read, Mr. REID recorded his  
opinion that any interference of the Court on the matter of the petition, would  
be improper and directed that the case should be submitted for final judgment  
to another Judge. Mr. REID remarked—“The case was finally disposed of in  
“ special appeal by the *Zillah* Judge. Although the petitioners exhibit, as a precedent,  
“ the judgment of Mr. RATTRAY admitting the special appeal of RAM GOPA'L DEO,  
“ still I am of opinion with reference to Clause 1, Section 28, Regulation V. 1831,  
“ the interposition of the Court in the matter would be improper.”

*Remark*—Though final judgment has not been passed, the principle by which  
it is to be governed is settled—(May 15, 1840.)

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## APPENDIX IV.

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### SAUGOR AND NERBUDDA TERRITORIES.

- No. 1. From the Honorable Mr. F. J. Shore, Officiating Commissioner, Jubbulpore, to Mr. H. B. Harington, Officiating Register Nizamut Adawlut, Alláhábád.
- No. 2. From Lieutenant M. Smith, Officiating Principal Assistant Commissioner, to the Honorable F. J. Shore, Commissioner, Jubbulpore.
- No. 3. From Major R. Low, Principal Assistant Commissioner, Jubbulpore, to Mr. H. B. Harington, Officiating Register Sudder Dewanny and Nizamut Adawlut, Alláhábád.
- No. 4. From Mr. D. W. McLeod, 1st Junior Assistant, Seonee, to the Honorable F. J. Shore, Officiating Commissioner, Jubbulpore.
- No. 5. From Mr. M. C. Ommaney, Officiating 1st Junior Assistant, Baitool, to Mr. H. B. Harington, Register Sudder Dewanny and Nizamut Adawlut, Alláhábád.
- No. 6. Letter dated 29th April, 1831, from Mr. F. C. Smith, Agent Governor General, addressed to Captain Crawford, containing general instructions in regard to Slave-cases, enclosed in above.



## APPENDIX IV.

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*From the Hon'ble Mr. F. J. Shore, Officiating Commissioner, Jubbulpore, dated 8th of March, 1836, to Mr. H. B. Harington, Officiating Register Nizamut Adawlut, Alláhábád.* No. 1.

2. First,—In these territories, the practice of slavery seems to have had scarcely any reference to either Hindoo or Mahomedan law on the subject ; moreover, the customs seem to have been very uncertain and arbitrary in different places and at different times.

Secondly,—Slaves were procured almost entirely by purchase of children from parents or relations in times of scarcity. The numbers do not appear ever to have been great, and are now very small indeed.

Thirdly,—The power of the masters over the slaves is by some, particularly the petty Rajahs, asserted to have been unlimited even extending to death. By others this is denied. I imagine, that in reality, it very much depended on the good understanding between the individual and the local governor.

Fourthly,—The masters were considered bound to afford protection to their slaves ; to pay the expenses of their marriages. The progeny of slaves is by some asserted to have been free, by others not.

Fifthly,—The services on which slaves were employed appear to have precisely the same as those of servants, either in domestic attendance, agriculture, or as Military retainers.

3. In reply to the second query of Mr. Millett's letter,—it does not appear that any cases have ever been preferred before the Courts in these territories, excepting of the following natures.

First. Demands of parents or other guardians to reclaim children sold by themselves during a period of scarcity or distress. In this case, the practice has generally been to restore the children on repayment of the charges incurred for their subsistence. Lieutenant Smith, officiating Principal Assistant of Saugor, states, “ that in cases, which are the most frequent, of the utter inability of the claimants to meet this charge, I have directed service to be levied from them by the purchaser for a fixed term according to an equitable computation ; or if the child is old enough to be of service in his household, I have allowed the employer,—on default of reimbursement for his expenses, and on condition of continuing to feed and clothe the child,—to retain him or her for the same period in the relation of an apprentice ; rather than incur the additional expense of which, without any ulterior object, the purchaser has generally foregone all claim and given up the child to its natural guardian,—taking credit for having supported it meanwhile in charity.”



Second. Female slaves complaining of ill-treatment by, or claiming their freedom from, bawds, and bawds wishing to reclaim their female slave prostitutes who have absconded.

4. By some officers the claims of the bawds seem to have been allowed; in others, disallowed,

5. The practice of the different Magistrates and Courts seems to have varied much, to the great vexation and annoyance of the people. It would be highly desirable that a definite law should be passed, either totally abolishing slavery or allowing it; and if the latter, declaring under what rules and regulations it should be tolerated. There may possibly be some districts, in which it would be impolitic to interfere with the ownership of masters over their slaves; but within the limits of the Agra Presidency, some such rules as the following might, I think, be safely and expediently enacted:—

First. None but a parent or legal guardian to sell a child; the sale to be registered in the office of the Judge, or one of the local Munsiffs or other authority.

Second. The rights over the child sold to be those only which the parent or guardian himself possesses.

Third. The purchaser to have the power to make the slave work, and to inflict chastisement in moderation, just as the parent or guardian would have done if he or she were in the labouring class.

Fourth. Ill-treatment of the slave by the master or mistress punishable by fine before a Magistrate; gross ill-treatment to entitle the slave to freedom.

Fifth. Every male slave to be entitled to his freedom on claiming it, on coming of age, or at any subsequent period.

Sixth. Every female slave to be entitled to demand her freedom on coming of age, or at any subsequent time, and to a small sum of money (the amount to be specified) as a dowry.

Seventh. A proclamation to be issued to all now possessing slaves,—whether procured by purchase or born in slavery,—to register them; after which the slaves to be subjected to the above rule.

Eighth. In the event of proclamation being neglected, at the expiration of (say) one year from its date, all unregistered slaves if discovered, to be at once declared free.

6. It is urged by some, that the parents or legal guardians should be allowed to redeem the child at any time by payment of the sum originally received by its sale. I have some doubts of the expediency of any such rule; such to be fair should be reciprocal; and if the above be allowed on the one hand, on the other the purchaser should be at liberty to return the child to the parents, reclaiming the sum he had paid. The practice of Lieutenant Smith shows the difficulty which would be entailed by such a rule when the parents would not pay.

7. There is an analogy in the case of apprenticeships in England. No parent can take away his child, (except the indentures be cancelled in consequence of ill-treatment on the part of the master,) until the period of apprenticeship has expired. If such were allowed, all the diligent lads who had learnt their trade speedily would be taken away by their parents that they might earn money as journeymen,—the idle and troublesome only being left with their masters. If the parents were allowed the power on the one hand, the masters on the other, must in fairness, have the option of returning such apprentices as were idle and useless. This would be the abolition of apprenticeships,—since it would be useless drawing up contracts which might be infringed by either party at his pleasure.

8. In this country, the chief object of tolerating a modified slavery, (and slavery under the rules above suggested would be no more than an apprenticeship,) is, that a family by selling, or in fact binding apprentice one of the children, should be saved from distress or even starvation. The object of the buyers would be to procure servants and attendants, whom it was worth while to take considerable trouble in instructing,—because they were sure of their services for several years, and very probably for their lives; since it is but natural that men would remain in the same family in which they had so long lived if well treated.

9. Only the poorest of the labouring classes, and that only in a time of distress, would sell their children. The idle children who would not work would not be reclaimed by their parents; and it would be any thing but equal justice that the parents should be able to reclaim those who were worth taking,—many, perhaps most of whom, would prefer remaining with their masters,—while the good-for-nothing should be left on their master's hands.

10. Place the matter in the following light. A family consists of a man, his wife and two or three children. After struggling against distress caused by a bad season, he in the month of December sells his youngest boy, aged four years old, for ten rupees, which sum enables his family to exist until the next wheat harvest in April; whereas they would otherwise have certainly died of starvation. After this the harvest being good, and work obtainable, the family continue to live in tolerable comfort; but finding that the child sold is very comfortable with its master, the father does not reclaim it. The master supports the child, and as he grows up, has him taught to read and to perform various services. When he is about ten or twelve years age, and able to make himself useful, the father claims him,—while he would probably prefer remaining with his master, being too young to remember his parents—on repayment of ten rupees. This can hardly be called justice. Even if he were obliged to pay the sum he had received, with simple interest at even twenty-four per cent., it would amount to but a small portion of the expense of the master, to say nothing of the latter's trouble. To attempt to settle the proper remuneration to the master would be very difficult. It would probably be better that the parent should not have the right alluded to; for although few would enforce it, the fear of its being done would prevent most people from buying children in a scarcity.

11. All slavery for the purpose of prostitution should be prohibited.

*From Lieut. M. Smith, Officiating Principal Assistant Commissioner, No. 2.  
Camp Marowrah, dated 16th December 1835, to the Hon'ble F.  
J. Shore, Commissioner, &c. &c. Jubbulpore.*

I have had the honor to receive your Circular No. 1685, dated the 24th ultimo, with its enclosures from the Sudder Adawlut, at Allahabad, and the Law Commissioners, regarding the principles and practice of our Courts in respect of slaves.

2. I may premise in the words of Mr. Macnaghten in his preliminary remarks to the principles and precedents of Mahomedan law as quite applicable to, this part of the country, that “of those who can legally be called slaves, but

few at present exist ;” and of those that do exist I may add, the condition is so comfortable and easy that the relation is hardly to be recognized.

3. The observations, which immediately follow the words I have quoted, and those contained in a note in the next page (page 40) by Mr. Colebrooke, sufficiently account perhaps for the fact, that very few cases of slavery are ever brought before our Courts. In the course of an experience of six years in these territories, I have met with none save those,—

1st. Of parents or other natural guardians reclaiming children sold by themselves or others, during a period of scarcity or distress. 2d, female slaves complaining of ill-treatment by, or claiming their freedom from, bawds who having purchased them in their infancy, have brought them up to a life of prostitution.

4. I recollect no instance of a complaint from or against, or of any claim to, the person of, a male adult slave, as such; and should any suit for emancipation occur,—although I should necessarily be guided generally by the Hindoo and Mahomedan laws respectively, as far as they are understood here—yet after the conflicting principles and precedents which may be adduced, and the latitude which seems to be allowed by Section 9, Regulation VII. of 1832, as well as by the practice of our Courts in this territory, I confess I should be at a loss how to decide on any other principles than those of common sense, justice and good conscience.

5. The regulations not having hitherto been in force here, and no specific rule having been ever, so far as I am aware, laid down for our guidance respecting slavery,—I have never had in the Courts, with which I have been connected, any other guide than precedent, and the custom of the country, modified by the discretionary power vested in the Assistant, whose decisions are supposed to be governed by equity and reason. Such being the undefined nature of the law of slavery in these parts, the tendency of our practice, so far as my observation and experience extend, has been to condemn the principle altogether, and wherever it could be done with safety and without interfering too much with popular prejudices, to disallow its operation. But the promulgation of some certain and well defined law on the subject appears highly desirable, and I myself see no danger in one of prospective effect, which should make all slavery from, and after a fixed date, illegal.

6. Here, in the absence of any distinct rule, the practice of one district has doubtless varied from that of another. In the first of the two cases instanced by me, while the custom of the country recognizes such a species of slavery both with respect to Hindoos and Mussulmans, still as it may be departed from without any ill-effects, the practice of the ministerial officers does, I believe, vary. I myself have always restored the children on repayment to their protector of the charges incurred for their subsistence; and in cases which are the most frequent, of the utter inability of the claimants to meet this charge, I have directed service to be levied from them by the purchaser for a fixed term according to an equitable computation; or if the child is old enough to be of service in his household, I have allowed the employer,—on default of reimbursement for his expenses, and on condition of continuing to feed and clothe the child,—to retain him or her for the same period in the relation of an apprentice; rather than incur the additional expense, of which without any ulterior object, the purchaser has generally foregone all claim and given up the child to its natural guardian,—taking credit for having supported it mean while in charity.

7. In the case of slave prostitutes forming particular attachments and claiming their freedom, I have known the right of the master or mistress to their persons to

be admitted, on proof of purchase from a parent or natural guardian; and this indifferently whether the girl and her purchaser were Hindoo or Mussulman. But my own rule,—even if the purchase could not be invalidated, which is rarely the case when closely enquired into,—has been to consider the female as entitled to her freedom after the age of fifteen, on paying what shall be considered by arbitrators an equitable remuneration for her food and clothing during her minority, and making due allowance for the wages of her prostitution which have been enjoyed by her mistress, and which in most cases of this kind may well be considered to have discharged the debt.

8. After what I have said, it may seem unnecessary to go into greater detail on the points proposed by the Law Commissioners. Where the practice of slavery is discountenanced in the manner I have briefly described, in all cases of the nature alluded to in the last paragraph of Mr. Millett's letter, I would on the same principle give the slave the benefit of that law which was most favorable to his emancipation; and certainly would not support or enforce any claim to property in a slave, by any other than a Mussulman or Hindoo claimant,—and not then if illegal by their own laws.

9. I will only observe in addition, with reference to the 2d and 3d queries of the Law Commissioners,—that no acts such as would be punishable in other cases would in this Court be held justified by the circumstance of the oppressed being the slave of the oppressor; nor would such relation between the parties be suffered, to operate in mitigation of the punishment; but how far we should be justified in the eyes of the law by following the dictates of reason and humanity, and emancipating a slave, whether Hindoo or Mussulman, from a tyrannical master, on proof of gross and incorrigible ill treatment, I am unable to say, though such would, I think, be the practice of this Court.

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*From Major R. Low, Principal Assistant to Commissioner, Jubbulpore, No. 3.  
dated 31st January, 1836, to Mr. H. B. Harington, Officiating  
Register to the Court of the Sudder Dewanny and Nizamut  
Adawlut, Alláhábád.*

I have the honor to acknowledge the receipt of your letter No. 73 of the 15th ultimo, calling for the report required by the Circular Order of the Court of the 13th November last, regarding the system of slavery as prevailing in this country.

2. I beg leave to state that, the reason, why I did not at once reply to the order in question, was, that I had no facts to furnish from personal experience on the subject.

3. The number of slaves in the district of which I have charge is very small, and they are only to be found in the situation of domestic servants. Their treatment in that capacity would certainly appear to be good,—as in the course of my experience I cannot recollect an instance of any complaints preferred by them of cruelty or hard usage by their masters.

4. Most of these persons became slaves by having been sold by their parents; who were unable to support them during the frequent famines which have occurred

in this part of India: and in the same manner, great numbers of children belonging to the starving population of Bundelkund, were sold by their parents here and elsewhere, during the two years that preceded the last year.—Most of these sales were made privately, but whenever the parties came to my kutcherry to have the bargain publicly sanctioned and registered, I have always informed them, that in the event of the parent appearing at any future period to claim the child, that it would be required to be given up, on the parent paying a reasonable sum for its subsistence and education; should the latter have been bestowed upon it, the amount of such remuneration to be determined by arbitration—should the children be so claimed.

5. Upon the various points alluded to by the Secretary to the Law Commission, I presume it cannot be the wish of the Court that I should obtrude my opinions; the object of the enquiries apparently being to ascertain the usual practice in such cases in the various Courts and Districts of the Agra Presidency.

No. 4     *From Mr. D. F. McLeod, 1st Junior Assistant, Seone, dated 26th December, 1835, to the Hon'ble Mr. J. F. Shore, Officiating Commissioner, Jubbulpore.*

I have the honor to acknowledge your letter of the 24th ultimo, forwarding a circular from the Nizamut Adawlut on the subject of slaves.

In regard to the first point, “the legal rights of masters over their slaves recognized by this Court,” I am unable to state definitively what has been the practice observed heretofore, as I am not aware of any cases involving the question which have come under investigation. The view of the matter however,—by which I should myself be guided as that which appears to me most in conformity with the views of respectable natives themselves,—is, that the property of a bona fide slave is the property of his master, saving what the latter may have himself bestowed; and that the slave's person in like manner is claimable by the master for the performance of all lawful services, such as may be obtained from others for hire,—including as regards female Mussulman slaves, concubinage though not prostitution. And I would here observe, that I should consider the slave, as having a reciprocal claim on the master for food, clothing, and lodging; which principle has been observed in cases decided at Jubbulpore.

On the second point, I should consider any act of coercion, which a court of justice would not prohibit on the part of a parent towards his child, to be admissible on the part of a master towards his slave. Any thing partaking of cruelty or vindictiveness, I should consider it incumbent on me to check in either instance by the infliction of a punishment on the aggressing party—though I should not deem myself authorized directly to liberate the slave on this ground; and indeed I am not aware of any definite distinction, as regards the acts admissible, which I should admit between this relation and that of master and servant,—as the liberty possessed by the latter to quit an irksome service, furnishes him necessarily with a safeguard much more effectual than any minute interference of the Court in his favor.

*In illustration of the above view, I may mention, that not long ago, a Mussulman of Seonee requested my permission to place an iron on the leg of his slave, who, he stated, would not obey his orders. My answer was, that kind and judicious treatment would be his only effectual means of obtaining work from him, and that I could on no account listen to such a request. I believe that other Mussulmans in Court, at the time, viewed this as the only just order that could have been passed.*

The indulgence extended to Mussulman slaves in criminal matters refers, I conclude, to their conduct towards their masters only; and here I should view the relation in the same light as above indicated;—viz. all smaller offences, such as parents are in the habit of themselves correcting, if committed by a slave, I should consider as more fit for the cognizance of the master himself than of a Court of Justice, while as regards all more serious offences, I should recognize no distinction between slaves and other individuals.

In answer to the third point enquired of by the Secretary to the Law Commission, I am unaware of any cases in which I should afford less protection to slaves than to free persons against other wrong-doers than their masters, but in all such cases I should consider the latter as a party concerned, and would hold him responsible if he did not use his endeavours to protect his slave.

With reference to the 4th paragraph of Mr. Millett's letter I need scarcely add, that in the above view, I have been guided more by the dictates of my own judgment, and what I have been able to gather of the views of respectable natives themselves, than by any reference to the codes of law. Amongst Mahomedans I believe that capture in an infidel land is the only authorized source of slavery; so that a legal right to the possession of a slave, can scarcely be said at the present day to exist among them, while as regards Hindoos from the Vyavasthas on record and their own views, there would appear to be no sufficient ground for the governing powers hesitating to prevent cruelty or violence towards the slave.

In this view I am aware of no distinction, I should make, between a Mahomedan and Hindoo slave-owner, save in regard to concubinage,—which the former view more in the light of marriage,—the latter of prostitution and contamination; and considering the relation as conferring reciprocal rights,—without giving to the master the power of exercising cruelty or violence any more than is possessed at all times by a parent,—I should not be disposed to make any distinction in regard to persons of any other race. Slavery in this part is a widely different thing from what it is in some parts of the Dhukin,—being in fact much more of the nature of a domestic tie than a condition of constraint. The obtaining possession of children, either by purchase or gift, is a thing, which the frequency of famines occurring in a country only thus civilized renders so inviting, that I doubt whether any law will put a stop to it at present; while it may be questioned whether its entire prohibition consists at all times with charity and the public good: and the maintenance of the relation on the footing above indicated, appears to me all that is necessary, in conjunction with the laws prohibitory of slave selling as a trade, in order to prevent its engendering serious evils. Already there is a very general feeling amongst natives, that under the British rule (more in consequence of its moral influence than any direct enactment) there is little advantage in the possession of a slave, for as they either are not permitted, or do not venture forcibly to detain them in their keeping, instances are daily becoming more frequent of slaves on reaching maturity, deserting even from masters who have treated them with uniform kindness, and generally speaking, carrying away with them a portion of that master's property.

No. 5. *From Mr. M. C. Ommanney, Officiating 1st Junior Assistant, Baitool, to Mr. H. B. Harington, Register Sudder Dewanny and Nizamut Adawlut, Agra Presidency, Alláhábád.*

I have the honor to acknowledge the Court's letter of the 15th November 1835, annexing a letter from the Indian Law Commissioners on the subject of slavery, and to submit such answers as the materials at my command and my own short experience enable me.

1st. Cases involving points of disputes as to the proprietary right of slaves, whether as concerns their persons or property have seldom or never come before this Court. I have carefully examined however such as have occurred, as likewise such documents in the office as relate to the subject of slavery. Slavery, indeed, is hardly known in these parts,—I mean the parts which were under the Maharatta rule; and where it does exist, it is in a mild form. The greater part of the slaves became so in consequence of famine, or the exorbitant prices of the necessaries of life. It is consequently found that only the richer and more wealthy part of the community are slave-masters. The slave is treated more as a member of the family, than a hired servant or laborer. An attachment is generally engendered between them, bearing the character of that between parent and child. The master is considered to have a legal right to the slave's services, to his property; and in the event of his emancipation, can claim remuneration for the expense of feeding and clothing him. Such a thing rarely or ever however occurs, as the sale or transfer of a slave, save on occasion of an extraordinary nature, such as famines or family distress.

2nd. Cruelty or maltreatment is not considered a justification of an act of liberation. The master may inflict on his slave such moderate chastisement as he may consider requisite; but a slave has as great a right to protection against severe and cruel treatment as any other British subject. I have reason to believe, that this rule existed in force, as well under the Maharatta, as under the British Government. I am not aware that indulgences of any sort have ever been or are ever granted to either party, master or slave, in any case. A master would be bound down by recognizances and sureties to keep the peace towards his slave equally, as he would towards any other person.

3rd. There are no cases in which this Court has ever afforded, or would afford less protection to a slave against wrong-doers than to any other person.

4th. In reply to the closing paragraph,—I should be guided in all cases by the law, religion or usage of the defendant; and as slavery is not recognized except between Mussulman and Hindoos, I should not consider myself justified in enforcing any claim to property, possession, or service of, a slave on behalf of, or against, any others than Mussulmans or Hindoos.

5th. That the Court may have the fullest possible information on this subject, I do myself the honor to annex a copy of Mr. F. C. Smith's instructions on the subject of slavery. By the rules contained in this letter, all decisions are made, and cases disposed of. With a view to ensure more uniformity between the system in force in these and the Regulation Territories, Captain Crawford was furnished, at his request, with a variety of cases disposed of in several Courts of the Western Provinces, and these, together with the annexed instructions, form the guides for the Assistant in any cases that may arise.

6th. Indigenous slaves, I believe, scarcely exist here.—Such as have become so, were sold to their owners in the famine in 1818-19, or more recently in the

terrible drought which occurred in this district and Berar in 1832. The only hope that parents had of seeing their offspring live, the only means of rescuing them from inevitable death, was their sale, which was carried to a great extent, though the liberality and charity of gentlemen were exerted to the utmost to prevent such a calamity. Of those sold however, the greater number have been freed by the masters themselves, and a large proportion liberated on the parents' reimbursing the owners for the money expended in their food and maintenance.

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*From Mr. F. C. Smith, Agent to the Governor General, Jubbulpore, No. 6.  
dated 29th April, 1831, to Captain Crawford, Principal Assistant to Governor General's Agent, Saugor and Nerbuddah Territories, Baitool.*

In reply to your letter of the 25th instant, I beg to state, that the only law passed by our Government respecting slavery is Regulation X. of 1811, which prohibits the importation of slaves by land or by sea into all places dependant on the Presidency of Fort William under a penalty of imprisonment for six months, and a fine of two hundred rupees, commutable to six months' additional imprisonment. And persons imported as slaves are directed, either to be discharged, or sent back to their friends and connexions in the country from which they may have been imported, as may appear most advisable to the Magistrate deciding the case. There is consequently no law prohibiting slavery within our own territories. On the contrary, questions of slavery have by several decisions of the Sudder Dewanny Adawlut, been recognized as legal and decided by the provisions of the Hindoo and Mussulman Laws,—according as the religion of the parties may have been.\* In the year 1798, the Court of Sudder Dewanny Adawlut stated their opinion, that the spirit of the rule for observing the Mahomedan and Hindoo Laws was applicable to cases of slavery though not included in the letter of it; which construction was confirmed by the Governor General in Council on the 12th April, 1798.

2. A reference was also made by the Superintendent of Police for the Western Provinces on the 19th July 1814, to the Nizamut Adawlut,—stating that instances had occurred of people having been subjected to punishment for the imputed offence of having sold or purchased slaves within our territories, and submitting an opinion, that the law exclusively prohibits the importation of slaves by sea or by land from the foreign states, but does not either supersede the operation of the Mahomedan Law, or interfere with the purchase or sale of slaves within the Company's territories who may not have been so imported,—and requesting to be informed whether his construction was correct. He was informed in reply, his construction of the law was correct and proper.

3. There are only two descriptions of persons recognized as slaves under the Mahomedan Law. First, infidels made captive during war; and secondly,

\* *Mussumut Chuttoo Appellant v. Mussumut Jussa Respondent*, (vide No. 1, Appendix III.)  
The case of *Hadeeyar Khan*, (vide Enclosure of No. 84, Appendix II.)



their descendants. These persons are subjects of inheritance and of all kinds of contracts in the same manner as other property; but as to slaves in popular acceptation of the terms such as those purchased in times of famine by Mussulmans and others, the legality is denied. In fact, the practice among freemen and women of selling their own offspring, is declared to be extremely improper and unjustifiable, being in direct opposition to the principles of Mahomedan Law, viz. that no man can be a subject of property, except an infidel taken in the act of hostilities against the faith. In no case then, can a person legally free, become a subject of property; and children not being the property of their parents, all sales or purchases of them, as of any other article of illegal property are consequently invalid. A freeman is also prohibited selling his own person and the contract is void.

4. The Hindu law fully recognizes slavery, which may occur from several causes;—viz. capture in war,—voluntary submission to slavery for divers causes (as a pecuniary consideration, maintenance during a famine, &c.),—involuntary for the discharge of a debt or by way of punishment of specific offences,—birth (as offspring of a female slave,)—gift, sale,—or other transfer by a former owner,—and sale or gift of offspring by their parents;—from which may be perceived, that there are five descriptions of permanent thralldom.

5. In cases wherein both parties, or the defendant alone, are Mussulmans, you should decide according to the Mahomedan law:—and when both parties or the defendant are Hindoos, by the Hindoo law.

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## APPENDIX V.

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### RETURNS OF PUBLIC OFFICERS RESPECTING SLAVERY IN KAMAON.

- No. 1. Eight questions circulated to certain Functionaries by Mr. Lushington, the Commissioner.
- No. 2. Rubakari, dated 28th October, 1839, of Mr. J. H. Batten, containing his own views and submitting answers of subordinate Judicial Officers.
- No. 3. Reply of Bir Bhadra Joshi, Sudar Record-keeper of Almorah, Kamaon, to questions forwarded to the Commissioner through the First Assistant, and referred to in No. 2.
- No. 4. Reply of Trilochan Joshi, Sudar Amin of Zillah Kamaon, 2d October, 1839, referred to *ibidem*.
- No. 5. Report of Kishn Nand, Acting Peshkar of Huzur Collections, countersigned by the Chowdhuris and Kanungoes of the Purguna,—referred to *ibidem*.
- No. 6. Report of Bhavdev Joshi, Munsif of Zillah Kamaon, 8th October, 1839.
- No. 7. Report of Khushal Singh, Ch'hatre, Tahsildar of Kali Kamaon.
- No. 8. Proceedings of the First Assistant of Zillah Garhwal, 31st October, 1839.
- No. 9. Urzi of Parmanand Notial, Record-keeper of Garhwal.
- No. 10. Report of Sevanand Khadudi, Sudar Amin, Purgunna Garhwal, 17th October, 1839, addressed to the First Assistant.
- No. 11. Urzi of Ramanund, Acting Tahsildar of Garhwal, attested by four Kanungoes of the Purgunna, addressed to the First Assistant.



## APPENDIX V.

### RETURNS OF PUBLIC OFFICERS RESPECTING SLAVERY IN THE PROVINCE OF KUMAON.

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*Questions by Mr. G. T. Lushington, the Commissioner of Kumaon, No. 1.*  
*circulated to certain functionaries, on 6th September, 1839.*

1. State particularly from what period, has the custom of holding male and female slaves, Halis and so forth, been current?
2. Up to what time have the claims of masters been heard in Court, and in what year did the cognizance of their claims cease, and by whose orders?
3. Has the master any control over the requisition and property of his slave?
4. Are slaves of every class or only of the lower classes?
5. Has a census of slaves with their classification ever been made, or, if not is it now practicable?
6. What services are exacted from slaves, Halis and others respectively; what is the nature of their support and lodging?
7. They are now emancipated. Before how and under what circumstances were they discharged, if any now apply for emancipation how is it to be attained?
8. At present does the former practice of selling men and women prevail in this country?

*Rubakari of the First Assistant Zillah Kumaon, Mr. J. H. Batten, No. 2.*  
*28th October, 1839.*

From the papers sent by the Peshkars and Tasildars, it seems that the slaves, including Halis, remain willingly. I do not however much rely on their assertion; for they have in their houses many slaves, and they desire that the custom should be kept up. In my opinion slaves are in comfort; and the females labor more than the males. The native functionaries write that the emancipation of slaves began

from the commencement of 1836: but they do not know how the pretensions of the slaves were brought forward, and how an order for their emancipation was issued by the Governor. Mention thereof may be found in the English office and Correspondence. Since 1836 in suits for slaves, orders for their discharge are passed, and when it has happened that a master restrained his slave, on report, the Magistrate has taken a recognizance from him. Claims of masters against fugitive slaves have been dismissed: but they were rare. Moreover I have learnt a new practice not mentioned in any former Rubakari. It is this, that the owners take a deed of mortgage from the slaves, whereby they bind themselves to serve a defined time in consideration of a sum stated. But in my opinion the practice is objectionable; for the slaves do not receive the money, but their fathers or other relatives. The claim is against the receiver of the money: but contrary to this, the Native Judges give judgment against the slave, in satisfaction of which they render labor. Some rule on this matter should be passed. Now-a-days prostitutes do not come into the Hills to buy girls: nor do people of other countries come. Girls who are kept by persons are like slaves; and in my opinion this practice is not good. But it is not easily to be put down. If any girl in person, or her father whom they call (governor) "*Naik*" should make this application to the Magistrate's Court, that she wishes not to practice prostitution but live by other means,—in that case her mistress, that is, the bawd, must be punished.

In my opinion, it is proper,—that cases against slaves should not be entertained in Court,—and that charges of slaves for assault should be heard, and masters punished like others, breakers of the peace.

Order. Let copy of this Rubakari and the replies of the functionaries be submitted to the Commissioner.

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No. 3. *Arzi of Bir Bhadra Joshi, Sadar Record-keeper of Almorah Kumaon.*

Answer to Question 1. From 1815 (the accession of the English) till 1835 the practice of selling slaves has been current in this country. The sale was made by a parent under the signature of the Raja. On the 6th February 1818 a proclamation prohibiting the sale of slaves and minatory generally against the buyer was issued. Subsequently in 1824 another proclamation was issued by the Court to this effect,—“Whoever shall sell a widow or his wife, the price by way of fine, will be confiscated to Government and the woman released from the buyer.” After that, on the 15th June 1836, by authority of the Governor General, the Court issued a proclamation declaring no suit for a slave cognizable. From this date the sale and purchase have ceased.

Answers to Questions 2d and 3d. From 1815 to 1835 the practice of sale continued. It was made by a parent under signature of the Raja. If the deed on the part of the parent was not authenticated, the person alleged to be a slave was discharged. Since the date of the proclamation, the purchase and sale are stopped. In respect to the property and effects of slaves there is no judicial order.

Answer to the 4th, 5th and 6th Questions. Deeds of sale under the signature of a parent used to be sustained as legal ; not those by a brother or others. On account of the illegality of the latter, the illegal slave was released. I annex a table shewing particulars of cases.

<i>Parties.</i>	<i>Residence.</i>	<i>Dates.</i>	<i>Claim and substance of last Order.</i>
1. Birua Dom v. Dowlut Singh, Uttam Singh.	Purgana Chougurlah.	1818, Oct. 24,	A suit for emancipation. Let both defendants divide themselves.
2. Birun. v. Kukuniya.	Dhyanirau.	1819, 1 June,	Suit for emancipation. The sale which was by a brother held to be illegal.
3. Chhuwani (female) v. Gita.	Shirkot Nadalipur.	1823, 6 Oct.	Suit for emancipation. A kinsman had sold her by a bill of sale for 15 rupees. Plaintiff declared free, price confiscated as a fine,—the woman having paid it.
4. Govind Prostitute v. Bijuli.	Almorah.	1823, 13 Mar.	Claim for emancipation. Defendant declared free, because not sold by a parent. The ornaments made up by defendant's sister restored to her.
5. Biwali female v. Gopiya.	Ata Dhaniya Kot.	1824, 22d Feb.	Claim for emancipation which was awarded. Fine of 80 rupees awarded against defendant, or 6 months' imprisonment if he could not pay.
6. Fowkiya Auji v. Maha Deo and Ram Kishn.	Basariya Sichalsi.	1826, 18 July,	Claim for emancipation of his daughter Makani. Sale proved, and claim dismissed.
7. Gugua v. Hari Ram Sah.	Almorah.	1829, 31 May,	Suit for discharge. Plaintiff discharged, for deed not proved.
8. Jai Narayan Tiwari v. Beroli (girl.)	Almorah.	1830, 7 Augt.	Suit for the recovery of a slave bought. Defendant made over to Plaintiff.
9. Malati female v. Pukhi.	Dobatala Syudara.	1832, 6 Sept.	Claim for emancipation which is adjudged : because the deed written by the Plaintiff's husband was not legal under the English Government.
10. Beelubhi Kanchani v. Anuwon.	Almorah.	1832, 14 Sept.	Claim for emancipation disallowed,—because 80 years had elapsed from deed of sale executed by Plaintiff's father.
11. Deutiya Naru v. Jyuni Chatrukhus.	Chakhura Agar.	1832, 17 Augt.	Claim to recover Defendant his slave. The Assistant gave a judgment in favor of Plaintiff, reversed on appeal by the Commissioner on the 4th September, 1832.

<i>Parties.</i>	<i>Residence.</i>	<i>Dates.</i>	<i>Claim and substance of last Order.</i>
12. Jemadar Bhavan- ri Muschir v. Sheolabh Pant, Dhanuli (female.)	Balvan Chhastana	1832, 21 Mar.	Case as to sale of the girl Dhanuli to Luchhman Banjara. Plaintiff, Defendant and Luchhman imprisoned three months.
13. Kishna Negipat v. Kishas jinu.	Manrasah Tauli.	1834, 21 June,	The girl Ramuli was sold for 106 rupees by her father to Defendant, residing with Mohuni prostitute. On the Hills, a father may sell his child: but the Regulations prevent sale of Hill children on the plains. Now Defendant does not meditate such sale—let him get charge of the girl, binding himself not to sell her on the plains.

On the 30th June 1835 was received in the Commissioner's Court, Rubakari of the Agent of Deyra Dun, of which the object is information as to the sale of persons in the Hilly tract,—and with it copy of a letter from Raja Darsan Sah. The reply written was to this effect.—“Every one marries and with his money “buys a woman. Brahmins do not plough with their own hands. They buy persons “of the Dumara and other classes to drive their ploughs.” This is the usage of this country from ancient time. In my opinion such sale and purchase of slaves are not prohibited: only the sale,—of widow, and of a wife, (husband existing,) is forbidden. In answer a Rubakari of the 21st August 1835 was written. A Rubakari of the Deyra Dun Catcherry 26th July 1827, in the case “Ghaughu plaintiff *versus* Kali, was also received. The object was to give information as to the theft of a bought slave. In the reply from the Commissioner's Court it was stated, that in that Court only the sale by the father of a slave was recognized as sufficient; but no bill of sale from any other kinsmen has been recognized in Court for the father only has the power to sell a son.

No. 4.      *Reply of Trilochan Joshi, Sadar Amin of Zillah Kumaon,*  
2d October, 1839.

To first Question. As it is clear that slaves, including the Hali, have been usual from olden time,—I do not know why Mr. Smith, the former Assistant, wrote to the Sadar Court his report; nor do I know what order came whereby from 1836 sale of slaves was stopped.

To second Question. It is apparent that formerly parents and masters used to sell slaves and Halis or transfer them to other places. Up to Sambat 1879 (1822) the sale was sustained in Court as legal. Every owner who sued recovered through the Court. From 1880 (1823) up to 1883, merely the sale by a parent

and self-sale remained legal and owners recovered objects of such sale. According to order of Mr. Turnbull, the Commissioner, when the sale was by others and claim preferred, the object was discharged. But from 1837 by order of Col. Gowan, the former Commissioner, the sale and purchase of all slaves were absolutely forbidden. Be it observed, the slave or Hali has control over his effects and property. On his death his heirs succeed, and failing heirs, the same escheats to the king. If intimacy take place between the male slave of one owner and the female slave of another, and if any issue be born, the owner of the mother takes the same. But the children so born have no claim on the estate of their natural father.

To third Question. Most male and female slaves are in the houses of Brahmins. In those of the Khetris, Vaisyas and Soodras they are fewer. Domestic slaves are of that class by any person of which,—being touched, water may be drunk. The Hali is a Dom.

Answer to fourth Question. There has not been any census of slaves taken as yet. To hold slaves does not depend on the class of the master. Whoever has the means buys slaves and Halis. From statements of Zamindars of respectability, Brahmins, Chatris and others, it seems, that a single person will have five or six male slaves and six or seven female slaves with their progeny,—twenty or twenty-five souls. But a poor Zamindar keeps one or two slaves, male and female, and Halis.

Answer to fifth Question. From the male and female slaves, every office, except cookery, is exacted. They and their children are fed and clad like the children of the house. They are provided with lodging in separate apartments; but the Hali, who is a Dom or other low caste, is not lodged in the master's place of abode, but is located on his soil in a separate house. The treatment of slaves is various. Some get two meals and clothes, and do all the work of their master at his bid. Some get an assignment of land from their master's estate. They plough, cut wood and carry burthens and otherwise labor. They cultivate the spot assigned for their support, and to this the master does not object. Besides, the master on occasions of festivals and holidays, gives them rations,—also during the year a blanket and shoes,—and at each of the harvests (autumn and spring) three or four sheaves. No rent is exacted for the land assigned for their support. The expence of the marriage of their children is defrayed by the master. Their children render the same services. Some Halis get money from a master, and marry. In consideration of this a claim for their services during life arises, but does not extend to their children. Some Halis take money, engaging by yearly service to pay it off. Whatever proportion he may pay off in a year, he only gets one meal on the day he works, and gets nothing more.

Answer to sixth Question. Slaves are sold by their parents; a brother cannot sell them. In this manner fathers of good caste will sell a daughter for money; but the father being dead, it is proper that the girl's mother or uncle should affiancé her; but to take money for her is wrong. The father and mother certainly procreate their children. They decide on what is moral or immoral. In the case here put to sell a daughter is common. If any calamity occur or offence be committed,—to sell a son or daughter on that account, is less immoral. The shaster provides for sale in such cases. Slaves sold by the master have been discharged by the Court, but not those sold by parents or self-sold. Moreover, now also, if a slave sold by his master petitions his release is proper. In case of hereditary slaves who have become as it were house born, there is no power of sale. Nor can parents sell such. The master defrays expence of marriage of such slaves. To release



such slaves does not seem proper. In this country, through domestic slaves and Halis, the cultivation and respectability of the respectable classes are kept up. On family partition slaves are first divided. If there is a sole slave, he works by turns for the joint owners, getting food and raiment for the party for whom he works.

Answer to seventh Question. The former Government by proclamation prohibited the sale of men and women, and on proof the seller was severely punished. But prostitutes used to buy adopted daughters (Dharma Putris) for their trade, and go to other countries. There was no prohibition of this. Thus also during the present Government, they certainly were allowed to buy and sell women.

In Sambat 1866 and two following years there was a scarcity. From this cause, in Ghurwal and Dote several men and women were sold, but the continued prevalence of this practice does not appear. In that year the proprietor of the Gor Estate was punished as a seller.

No. 5. *Report of Kishn Nand, Acting Peshkar of Hazur collections, countersigned by the Chowdhris and Kanungos of the Pargana.*

Answer to Question 1. From the beginning the practice of selling slaves and Halis has prevailed. It does not appear when it was abolished. But in 1824 an order was issued prohibiting any one from selling a widow or his own wife: but sale of children has never been prohibited; at least we are not aware of the fact if so.

To Question 2. Up to 1879 Sambat (1822) on claims preferred to the Court by the master, he recovered his slave, male or female, or Hali, but from 1880 down to 1893 (1836) the master only recovered in cases of sale by a parent or self-sale. Where the sale had been made by others the object was released. LAXMI-PAT, by the judgment of the Court of Circuit, was confined on a charge of murder, and his two slaves were released. On appeal he was enlarged by the Nizamut Adawlut; and the slaves were restored to him. But early in 1839, some order, the nature of which is not known, was received from the Sadar. In consequence of it, the sale of slaves was entirely stopped. Slaves have no property unless it be personal effects, money, or ornaments according to their quality. These remain in their possession, and the master does not claim the same. After their death, their children get their effects: but if none survive they belong to the master. With the consent of the master their effects remain in possession of the slaves. If the male slave of one master get a child on the female slave of another, such child has no right to his father's effects: for the child is considered as the slave of the mother's owner.

To Question 3. Except the Brahmin class, slaves are of all other classes. But any person, who would have a slave, should take care not to take one of superior class. It is proper to take a slave of one's own or inferior class.

To Question 4. There has been as yet no census of slaves. The keeping slaves depends on means. Brahmins, Dalavas, Daftries, Rajputs, Sahukars and other persons of respectability, such as are thrifty and active, have about 20 or 25 domestic slaves, male and female. On partitions these are divided like other

property. He who was able, used to add to his stock by purchase. He who was reduced used to sell, keeping however one or two as a matter of course. When a single slave is a joint property he serves each joint master in rotation and so gets support. At present the number of slaves depends on means.

*Answer to 5th Question.* Every service but cooking is exacted from the Hindu slave, to whom no event of the family is a secret. The owner supports them like his own children: and they have access into the interior of the dwelling, as if kinsmen: their support is sufficient. When the family of a male or female slave is numerous, the owner assigns them some land and detaches them. The Hali is of a low class. His owner gives him a separate house. The master allows each bought Hali, food and raiment. He is married at the cost of owners. For this reason his children are his master's property. Some Halis take a sum of money engaging to serve during life. The Hali who cultivates his master's lands gets yearly raiment and food. Some Halis receive a sum of money engaging to work till repayment. Such a Hali merely gets a single meal on the day he works.

*Answer to 6th Question.* Up to this time, those slaves, who have been enlarged, have not been sold by parents. For in fact a man partakes of the portions of his father. Mother cannot sell him. Therefore the sale by any but a parent is improper. Besides when a father or mother sells a son or daughter, being in distress, there is not so much objection for they suffer much distress by the birth of children. But owners only buy slaves for their own convenience: so when in distress they sell. Thus male and female slaves are in the predicament of property. For this reason, owners cherish them like children and incur heavy expenses on their marriages. Thus in the family of a person of rank and respectability slaves descend for generations. Some respectable persons at their daughters' marriages make male and female slaves part of the nuptial present. Slaves, male and female, are, in respectable families, from ancient time, as it were, houseborn. It is not right to give them freedom: for in this country every office, that is to say, agriculture, and the preservation of the dignity of respectable persons, are secured by slaves, male and female, and the Halis, and the rest. But it is right to liberate those who have not been sold by a parent or self-sold. Previous to this, slaves not in this predicament, have been invariably released by the Court and the Raja of the country.

*Answer to 7th and 8th Questions.* Exportation for sale was originally forbidden by proclamation in this country: and those, who practised it, were punished, but the prohibition to buy girls did not extend to the prostitutes of this country, who emigrated in their vocation. But during the English Government this practice was also prohibited to them. The Sambat year 1867 and 1868 were years of scarcity in this country. On that account men and women were exported for sale in Ghurwal and Dotib. But the practice does not obtain there.—*7th October 1839.*

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*Report of Bhavdev Joshi, Munsiff of Zillah Kumaon, 8th  
October, 1839.*

Answer to Question 1st. In former times in this country, sale of slave, Halis and others, was not prohibited. In 1824 sale of widows and wives by their husbands was prohibited by proclamation.

To 2nd Question. From the accession of the English Government till 1836, on proof, judgment passed in favor of owners against slaves. From 1836 their claims were not heard. Thus sale and purchase were stopped at once.

To Question 3d. The master has control over the acquisitions of his slaves, but he leaves them in their enjoyment or that of their heirs.

To Question 4th. Persons of every class (Brahmin excepted) may be slaves; it depends on means and regard is had that the slave is not superior in caste. If superior he may be kept in employ as a peon or other office; but a person of superior class cannot be domestic slave of a person, of low caste.

To Question 5th. There has been no census. Persons hold as many slaves as they can; some have five, and some six slaves, male and female, and Halis.

To Question 6th. The Hali for the most part ploughs: but if he have leisure he brings in wood, grass, and so forth. They are supported in various modes. Some have jagir land on the master's estate, by tilling which they live. Whoever has land erects a house on it for his Hali. First he works for his master, whose family is fed by the grain produced by his labor. He produces enough for his own wants. On occasion of Holidays and ceremonies the Halis get rations and so forth; also some money as wages, and winter clothes or money in lieu. They get food on the day they plough. Their abode is outside because they are of low caste. The marriage of their children is with the leave and at the cost of the master. Their children succeed to the hereditary task and receive some allowance. Domestic slaves perform the various services required in the family. The females prepare the rice, flour and other dry food by their labor. They bring in water, wood and other supplies from out side and get ready the materials for cooking. The males cultivate and so forth, and go on messages. On occasion of marriages, and of journeys they carry the palkee of their master. They sometimes form part of the nuptial present of the master's daughter. Domestic slaves share the board of the family and are clothed as members of it. The master charges himself with the marriage and support of his slave's children. They are supported when unequal to work, and in sickness the master expends large sums in medicaments. He defrays their funeral expenses.

To the 7th Question. Slaves (including Halis) are not entitled to liberation without assent of the master. If a master has conditionally pledged his slave in need, on redemption he takes him back. During the English Government down to the period stated, slaves did not use to get their release, and even now hereditary slaves are not entitled to liberty. In this country the lower classes are appointed to under services as slaves to the superior classes. The lower classes are the Kahar, Kota, Kurmi, Mali, Lodha, Murab, Kachhi, Sandi and others. They are for service to the Brahmins by carrying them. Moreover, carriages, horses and the like are established from olden times, for the dignity of persons of rank, which is sustained thereby. In this country, no class is appointed to any special business. It depends on means. Without slaves the respectability of the country will not endure. For here agriculture prevails and in particular persons of high caste are

supported thereby. Since 1836 the slaves liberated are those who were not sold by a parent or self-sold. I concur in enlarging these. But where the title to the slave is derived, from a parent, from self-sale, or from the Raja of the country,—in no instance has the slave been enlarged.

To the 8th Question. According to the usage of the country as above set forth, the master is competent to sell his slave. But this restriction has prevailed,—that he is not to sell him to a Muslim or one of inferior class. The sales for exportations in Ghurwal and Dobti during famine cannot be considered to bear this character, for they were effected to save life by removal to other places. Those who have effected such sales by fraud and for profit have been punished.

*Report of Khush Hal Singh Chhattri, Tahsildar of Kali  
Kamaon.*

No. 7.

Answer to Question 1st. I have enquired of the principal and old inhabitants of this country. They say the sale of slaves and Halis is an ancient usage. Joshis and other subordinate officers state that Mr. Assistant Smith made a report on the subject to the Sadar. In consequence a proclamation, prohibiting the sale, was issued. But with the connivance of Government, people still buy and sell: for without slaves persons of respectability could not transact their affairs. All services required by Brahmins and Khattris are performed by slaves; who till for and carry them. Without them they would suffer much inconvenience. For, hired labourers are not found in the Hills. With reference to this they buy male and female slaves, from whose hand they may receive water to drink.

Answer to 2nd Question. I learn from the inhabitants of this country that the sale of children by parents is legal. The buyer from a parent may resell or give away. They say from the beginning till 1893 Sumbat claims for slaves were heard in Court and they were restored to their owners. But from 1837,\* by order of Colonel Gowan, the Commissioner, the sale and purchase were entirely stopt, and claims are not heard.

Answer to 3d Question. It is clear that slaves only hold effects for their support. Such effects are under control of their masters,—particularly if they are recusant in work. The master then seizes every thing. Slaves and Halis have no property. Had they, they would not serve others as slaves.

Answer to 4th Question. This usage prevails in this country whether on the Hills or under the passes. Persons of every class, Brahmins excepted, become slaves. It depends on means. Slaves of the three superior classes should be those from whose hands water to drink may be taken. Halis are of low caste; Chumars and Domes.

Answer to Question 5th. I learn that no Census of slaves has ever been taken. According to means, respectable persons may hold four or five male slaves and as

\* Sic Orig. A. D. seems meant.

many female and three or four Halis. Persons of inferior class have fewer. Each Zemindar, whether of high or low caste, has still two or three Halis for agriculture; for the support of this country is therefrom.

Answer to Question 6th. I learn from respectable persons that, cooking excepted, all work is exacted from slaves, male and female,—such as preparing dry food and so forth. They have abodes near the houses of their masters. They receive food and raiment as members of the family; and provision for their marriages and other rites is made as such. They are, as if children of the master. The Halis who are of mean caste plough and bring wood and grass. They are located on the master's lands without his dwelling. They get food on working days, grain at both harvests and yearly winter clothes and shoes. Some Halis take an advance of money engaging to repay by work. Such Halis receive nothing, but are released when they have worked it off by ploughing during the time agreed, or some Halis have land rent free for their support.

To Question 7th. I learn that sales by parents and self-sale are considered legal. Those sold fraudulently by others are released and the seller punished. Such sales have often been prohibited by proclamation,—to the effect that kinsmen, other than a parent, cannot sell and will be punished.

To Question 8th. I learn, that in the division above the passes of Kote Gurwar, persons have not openly practised such sales. During the Ghurka Government at Almorah and other places, if sales secretly made were discovered, the sellers were punished. Thus for the most part apparently the traffic in slaves was stopped, but in the division of Doti on the hills every where they sell children, and to this time the prostitutes every where buy girls from their parents and adopting them, take them to their own countries for their own profession. In later times, during extreme scarcities, parents have given away their children to the persons of the country, and some have received a pecuniary consideration. But apparently the traffic in slaves never was a fixed usage. It does not appear that since the Government proclamation it has been clandestinely practised.

No. 8. *Proceedings of the First Assistant, Zillah Garhwal, Mr. Henry Huddleston, 31st October, 1839.*

I have received the reports of the functionaries on the questions put by the Commissioners in regard to slaves in his proceedings 6th September. This is the result.

Question 1st. Formerly the practice of selling slaves and Halis prevailed. But from the 31st May, 1836, by order of the Lieutenant Governor, claims for service of slaves have ceased to be heard.

Question 2d. The table given in by the Record-keeper and the reports shew, that up to 1835 claims of purchasers were heard and masters recovered slaves claimed, by order of Court. But this was the practice that they recovered on sales by parents not by others. Since 1836 no orders shewing admission of such claims.

are found; some may exist but I am not aware of the fact. The master has power over the effects of his slave who is supported by him.

Question 3d. Slaves are of various classes. The Rajput, Khutri and others. But a Brahmin cannot be a slave: any other person may. It depends on means. No one considers whether the slave's class is high or low. But the Hali is exclusively of low class; the Dome for instance.

Question 4th. There has been no Census; and this now would be impossible. Returns would be erroneous. Here respectable and rich persons have several domestic slaves and Halis. Their children serve the children of the original buyers for generations and are supported like their brothers and children.

Question 5th. And the slaves who are of low caste, plough and do other hard labor. They are located outside of the enclosure of the master's dwelling, or on some other spot on his estate. They are fed and clothed by work. From the Rajput and others, who are slaves, ploughing likewise and various household work are exacted. In food and raiment they are associated with the rest of the family.

Question 6th. Slaves have as yet only been liberated by the Court on the ground of the sale having proceeded from a person other than a parent. In the former Government a stranger would sell another's son. Slave cases do not arise for masters keep their slaves contented. According to the old usage of this Zillah, if a slave case arise the alleged slave would be enlarged unless sold by a parent.

Question 7th. During the Government of the Raja, sale for exportation was prohibited: but during the Gorkha Government they used to export and sell children of others, on account of the poverty of the people. When the Nepal Raja was informed of this the sellers were punished. But within the country the old practice of sale and purchase continued. During the English Government several persons have been exported and sold in other countries, but persons guilty of this on proof have been punished and the practice was prohibited by proclamation; at present it has here ceased. But Zamindars and principal persons of reduced means do secretly sell their slaves to other Zamindars. Hero transport by carriage, oxen and so forth does not exist: therefore Zamindars keep slaves, male and female, for the purpose of carrying.

The above particulars appear to me correct, and the practice as set forth yet prevails. Copy of these proceedings, with original reports, will be sent to the Commissioner.

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*Urzi of Parmanand Notial Record-keeper, of Gurhwal.*

No. 2.

I submit by your order a tabular statement of slave cases. The practice of this country has thus continued down to 1835. Slaves were restored by the Court on proof of sale by a parent, or being hereditary. But those sold by others were released. Afterwards from 1836, by order of the Governor, the cognizance of suits for slaves ceased: and he who exposed and sold slaves in another country was severely punished on proof. In Sambat 1880 the price of any widow sold was confiscated

to Government by the Court and the widow enlarged. The result has been the uncertain state of Brahmins and respectable persons and persons of reduced means.

TABLE.

<i>Parganah.</i>	<i>Parties.</i>	<i>Particulars.</i>
Nagpur, .....	Umeido v. Bhimdatt,	Claim for release of Plaintiff. Proved that Defendant had received the money back. Order for release. 20th June, 1832.
Badhan, .....	Chatru v. Swariya,.....	Claim for release of Plaintiff. Plaintiff had written an acknowledgment to Defendant. On proof, order to restore Plaintiff to Defendant. 18th January, 1833.
Nagpur, .....	Nadu v. Dhanya,.....	Plaintiff claimed release; which is decreed, because sold by a stranger. 21st April, 1833.
Badhan, ... ..	Chamriya v. Bhupchand,	Plaintiff claimed release; but claim was dismissed because Plaintiff had written a new deed to Defendant. 13th July, 1833.
Ditto, .....	Suamur and another v. Ram Datt Debi Sing,	Plaintiffs claimed release. Order, —with their assent, let Plaintiffs continue to serve Defendant, who is to restrain his children from ill using them. 26th December, 1833.
Ditto, .....	Doka v. Badri Datt, ...	Plaintiff claimed release. Order, —unless Plaintiff can repay advance of Defendant, let him as before continue to work in Defendant's family. 7th January, 1834.
Ganga Salan, .....	Ajbor v. Joshusudu Dhan-kee,	Plaintiff claimed the girl Sebi as bought by him. Dismissed on defect of purchase proved. 9th May, 1835.
Talasalan, .....	Sobha Sing v. Bisalu,	Plaintiff claimed the Defendant as his slave; on proof of purchase slave decreed to Plaintiff. 11th May, 1835.
Nagpur, .....	Dhana v. Nathu, .....	Plaintiff claimed Defendant as his slave. Bill of sale not proved. Defendant to remain with Plaintiff as a pawn.
Barasyun, .....	Gyani Domo v. Sebu,	Plaintiff's claim for his release dismissed on proof, that Plaintiff was the hereditary bought slave of Defendant. 22d November, 1838.
Nagpur, .....	Kukuri, female v. Delu,	Plaintiff claimed her liberty under the Regulations of Government. Liberty to her and child decreed. 28th April, 1837.
Ditto, .....	Guva v. Puran, .....	Under the English Government no one can be a slave of another. Let Plaintiff go where he pleases. 15th May, 1837.
Ditto, .....	Japuli, female v. Patu,	Let no one claim Plaintiff as a slave. She may go where pleases. 15th May, 1833.

<i>Parganah.</i>	<i>Parties.</i>	<i>Particulars.</i>
Malata Ganga Par, ...	Manu v. Ram Sukh,...	Plaintiff claimed the girl Devati. Claim dismissed on the rule of prescription and the prohibition of such claims by the proclamation of Government. 18th September, 1837.
Bainghara, .....	Banchu v. Kishna,.....	Let Plaintiff be liberated: the Defendant under current regulations has no claim in law. 7th November, 1837.
Talá Salan, .....	Sobha v. Visalu, .....	Plaintiff claimed Defendant as his slave. Bound over to abstain from such claim. 26th March 1838.
Paltan Kumaon,.....	Kalu Khalasi v. Dhani Jatru,	Plaintiff claimed emancipation. Decreed. 17th August, 1838.
Barspu, .....	Guru v. Harku,.....	Plaintiff claimed his liberty. Defendant referred to civil action for his money. 3rd September, same year.
Nagpur, .....	Govinddyalu v. Hurku,	Plaintiff claimed his liberty. Decreed. 13th February, 1839.
Ganga Slan, .....	Sounu v. Hushyaru,	Same claim and decree. Defendant bound over. 8th April, 1839.
Ganga Par,.....	Sangaradeya v. Kishn Datt,	Plaintiff claims liberty. Order. Defendant has no right to him. 26th June, 1839.

*Report of Sivdand Khadudi, Sadar Amin Parganah of Garhwal,*  
*17th October, 1839, addressed to the First Assistant.*

No. 10.

I submit my answers to the questions put by the Commissioner.

To first Question. Claim for service of slaves and Halis have from olden times been usual in the country. But in 1836, by order of the Sadar Court, the cognizance of such claims was stopt.

To second Question. Down to 1835 claims of owners, purchasers of slaves, were heard in Court : and on sales by parents they recovered.

To Question 3d. The property held by slaves belongs to the master who supports them.

To Questions 4th and 5th. There has been no census of slaves ; nor is any now practicable. The Brahmin class excepted, of all classes persons may be slaves. It depends on means.

To Question 6th. Male slaves and Halis plough. They do the work of the house. They get clothes in winter and the hot season. They partake of the dressed food of their master. If they do not get such food, land must be allowed them. The master pays the tax. The master provides his slaves with lodging.

To Question 7th. Up to this time those released have been sold by persons, not their parents, or have not been self-sold. But those sold by parents or self-sold have not been released. If this usage should continue it will contribute to the power of persons of rank and respectability in this country.

To Question 8th. The traffic in slaves is not practised now. Formerly any person who sold his wife or a widow was severely punished. Formerly this



was usual, that if the wife of one man intrigued with another she used to be sold to him. Zemindars amongst themselves would sell the widows of their kinsmen. This has been prohibited by Government since the year 80. Since then it has been the usage to confiscate price. But under the Regulations of the English Government all these usages are abolished, no one dares to export for sale. In this hilly country there are no carriages, oxen and so forth. Water too is brought from a distance. Brahmins and other respectable persons cannot bring themselves water and wood and so forth. Their subsistence depends on male and female slaves and Halis: they therefore buy, persons willing to sell themselves, and children sold in need by parents.

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No. 11. *Urzi of Ramanand, acting Tehsildar of Garhwal, attested by four Kanoongos of the Parganah, addressed to the First Assistant.*

I submit the following answers to the questions of the Commissioner.

To Question 1st. Sale and purchase of slaves and Halis continued in this country as an old usage. But in 1836 the cognizance of claims for services of slaves was stopt.

To Question 2d. Down to 1835 purchasers recovered slaves bought from a parent.

To Question 3d. To the master belongs the property of slaves: for he supports them.

To Question 4th. Slavery is not restricted to low classes. It depends on means.

To Question 5th. No census has been or can be taken. The usage has been that the rich and respectable keep slaves whom they have bought. Their children serve the same person who supports them. Brahmins have the most slaves: respectable persons of other classes hold them in proportion. Persons of low class do not hold slaves.

To Question 6th. From male domestic slaves and Halis, ploughing, and menial offices, such as bringing wood and carrying loads, are exacted. They get clothes every six months: they mess with the family every day: they take food with the master. But if the master cannot let them mess with him, he allows them land rent free for support. He erects abodes for their lodging. Formerly if male or female slaves were recusant, the master corrected them. Now that a proclamation has been issued by Government, the slaves have become very insolent. It would be proper and right if Government punished and corrected them.

To Question 7th. The Court up to this time has not liberated slaves sold by a parent or self-sold, but only those sold by others. It would be very right to pass an order to sustain sales by parents or self-sales.

To Question 8th. Formerly the practice of exportation of men and women for sale was never allowed. During the Gurkha Government, from indigence and scarcity, people of the country used to sell in other countries their own children or kidnapped children, at the rates of ten or four rupees. When the Raja of Nepal was informed of this, he sent the Cazi Buhadur, the Thadi, the Bukhshi and great Khatri to prevent the same. In 1868 those guilty of the practice were punished.

severely and the practice prohibited for the future. Under the English Government the offence has been punished and is now stopt. Formerly the husband used to sell his frail wife to her paramour. Zemindars amongst themselves used to sell widows. Since the year 80 the prohibition has been proclaimed on the part of Government; since when it has been well known that on proof of the traffic in question, the price will be confiscated and the persons sold released. On account of scarcity and want during the Gurkha Government, if any one sold the wife or children of another on their complaint being preferred they were released. But those who were sold by parents, without assent of buyers, were not released. At present the Zemindars are well pleased; for slaves bought of parents in their need at smaller prices, now command high prices. Some as much as one hundred rupees. The Brahmins and other respectable persons of this country cannot plough with their own hands. There are no porters in this country as elsewhere. From this cause, though the practice of sale and purchase is abolished, still Brahmins and other respectable persons secretly buy slaves and Halis as occasion arises and get work from them: for without their labor in this hilly country the work of respectable persons could not be done. The Government protects the country. What it may decide on will be for the best.

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## APPENDIX VI.

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### OFFICIAL CORRESPONDENCE RELATIVE TO SLAVERY IN ASSAM.

- No. 1. Memorandum of Correspondence between Mr. D. Scott, Agent Governor General, North East Frontier, and the Government.
- No. 2. Letter of Mr. D. Scott, Agent Governor General, North East Frontier, dated 4th February, 1830, to Captain J. B. Neufville, Political Agent in Upper Assam, on the subject of Registry of Slaves.
- No. 3. Letter from latter to former, dated 26th July, 1830, proposing restriction to sale and separation of near correlatives.
- No. 4. Letter from Captain A. White, Officiating Magistrate, Lower Assam, to Mr. D. Scott, Governor General's Agent, dated 9th August, 1830, in reply to his letter dated 15th July. Reports on the state of Slavery and suggests ameliorative rules.
- No. 5. Letter dated 10th October, 1830, from Mr. D. Scott, Agent Governor General, North East Frontier, to Mr. George Swinton, Chief Secretary to Government, Fort William, being report on the state of Slavery in Assam, with propositions called for by letter of Government dated 30th April.
- No. 6. Extract letter of Mr. T. C. Robertson, Commissioner Assam, to Secretary to Government Judicial Department, dated 28th February 1834, viz. those parts which relate to rules in regard to Slaves and Bondsmen.
- No. 6. A. Extract rules enclosed in above letter, namely, Rule IX, providing for case, where a slave is designated for sale to levy judgment.
- No. 6. B. Rule enclosed in above as to redemption of Bondsmen.
- No. 6. C. Rule as to,—purchase on appraisement of slaves designated as assets, whereby judgments may be levied,—and their redemption.
- No. 7. Extract letter from Government dated 25th August, 1834, to Captain F. Jenkins, Commissioner Assam, in acknowledgment of No. 6, and other letters.
- No. 8. Extract letter dated 10th May, 1835, from Captain Jenkins, Commissioner Assam, to Government, being Judicial Report for 1834.
- No. 9. Extract Section X. from the original Draft Rules for the administration of Civil Justice in Assam, proposed by Mr. Robertson, late Commissioner of Assam, when Judge of the Sudder Dewanny and Nizamut Adawlut.

- No. 10. Extract from enclosures of a letter dated 14th April, 1836, from Captain F. Jenkins, Commissioner, to Sudder Dewanny and Nizamut Adawlut, viz. opinions of Captain Matthie and Ensign Brodie on the said original Draft Rules.
- No. 11. Extract Minute of Mr. T. C. Robertson, Judge of the Sudder Dewanny and Nizamut Adawlut, dated 24th June 1836, on remarks of Captain Jenkins and subordinate Judicial Officers on Draft Rules.
- No. 12. Extract letter dated 25th October, 1836, from the Bengal Government to Sudder Dewanny Adawlut in reply to its letter of the 29th July, 1836, on the subject of Draft of Judicial Rules.
- No. 13. Reply of Sudder Dewanny and Nizamut Adawlut, dated 14th April, 1838, with enclosures.
- No. 14. Letter from Officiating Register Sudder Dewanny and Nizamut Adawlut, Fort William, to Officiating Secretary to Government of Bengal in the Judicial Department, dated 22d December, 1837.
- No. 15. Letter from Officiating Secretary of Government to the Register Sudder Dewanny Adawlut, Fort William, dated 13th February, 1838.
- No. 16. Letter from Captain F. Jenkins, Commissioner of Circuit, Assam, to Register Sudder Dewanny and Nizamut Adawlut, Fort William, dated 5th January, 1836. This replies to the letter of the Court of 13th November, 1835, communicating copy of the Circular letter of the Law Commission, dated 10th October,\* 1835.
- No. 17. Letter from Captain F. Jenkins, Agent Governor General, to Secretary to Government of India, Political Department, Fort William, dated 19th February, 1840, with copy of a letter from Captain H. Vetch, Political Agent, Dibrooghur, Assam, on the subject of the Construction of Regulation X of 1811.
- No. 18. Letter in reply from Secretary to Government of India to Captain F. Jenkins, Agent Governor General, North Eastern Frontier, dated 9th March, 1840.
- No. 19. Letter in reply to above, from Captain F. Jenkins, Agent Governor General, dated 20th May, 1840, together with further report enclosed therein from Captain Vetch, Political Agent, dated 8th May, 1840.

*Vide No. I Appendix II.*

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## APPENDIX VI.

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### *Memorandum of Correspondence between Mr. Scott and the Government on the subject of Slavery in Assam.* No. 1.

No. 1. Mr. Secretary Swinton's letter to Mr. Scott of the 10th April, 1829, alluding to Mr. Scott's letter of the 25th March (not forthcoming) states that the orders of Government prohibiting sale of slaves for arrears of revenue should be held applicable to Assam.

No. 2. Mr. Scott acknowledges receipt of above in his letter of the 31st December, 1829, and solicits sanction of Government for emancipating such persons when no assets may be forthcoming, at fixed rates according to sex and age.

No. 3. Mr. Scott replies by letter of 26th February, 1830. Observes that no objection appeared to the plan suggested of requiring it of Government defaulters the release of a given number of slaves at the rates varying from fifty to ten rupees, provided such an arrangement would prove immediately beneficial to the individuals emancipated. But with advertence to demands of individuals under decrees of Court and to the proposition in consequence that Government should acquire a right to the slaves by paying the creditors a fixed rate for the slaves, it was considered inexpedient that Government should interfere in the matter, and that the former orders were not intended to apply to such cases,—further directing that previous to acting under the discretion accorded to him in the case of revenue defaulters possessing no property but slaves, carefully to ascertain if their emancipation were likely to be attended with any practically and permanently beneficial result to the parties concerned; and whether they would not again place themselves in the relation of bondsmen.

No. 4. Reply of Mr. Scott by letter of 24th March, 1830, stating that he did not contemplate the probability of emancipated slaves again placing themselves in the condition of bondsmen, since under arrangements of the kind, the bondsman always retained the right of redemption.

No. 5. Mr. Secretary Swinton, in his letter of the 30th April, 1830, requests of Mr. Scott to furnish a general report on the state of slavery in Assam.

No. 6. Another letter from the above dated 16th September, 1830, conveys extracts from a letter from the Honorable Court of Directors dated 10th March, 1830, and requests Mr. Scott's sentiments on slavery in Assam.

On receipt of this, Mr. Scott circulated copies to the Magistrate of Sylhet, Political Agent in Upper Assam, and Captain White, then Magistrate of Lower

Assam, requesting their opinions. Replies were received from the Magistrates of Sylhet and Lower Assam and copies of them made,—that from Sylhet is missing, and Mr. Scott's report itself (dated 10th October, 1830,) very unaccountably remains undispached. Mr. Robertson addressed a letter to the Secretary to Government in the Judicial Department dated 11th February, 1834, wherein he recommended for sanction the promulgation, a rule regarding the sale of slaves in execution of decrees. To this, no reply has yet been received.

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No. 2. *From Mr. D. Scott, Agent Governor General, North Eastern Frontier, to Captain J. B. Newville, Political Agent in Upper Assam, Jorehaut, dated 4th February, 1840.*

Previously to submitting to Government any proposals relative to slaves in Upper Assam, I have to request that you will ascertain, as nearly as practicable, the number of persons of that description in your district, and that if it have not been already done you will cause a registry of them, and give public notice to all persons concerned that the same will be closed at the expiration of six months, and that all persons not entered in the list will be considered as free after that period.

2nd. As this regulation which has been sanctioned by Government may materially affect the rights of individuals it is necessary that it should be very fully promulgated, and I would recommend that this should be done monthly in all the Kutcheries, markets and considerable villages, and that the Kheldars should be required to execute engagements that they will make the tenor of the order known to all persons belonging to their companies.

3rd. It is almost needless for me to remark that the act of registry will confer no rights over persons so claimed as slaves that were not previously possessed, and it is not therefore necessary that any scanting should take place as to the actual condition of those whose names may be inscribed. To prevent future disputes it is desirable that the list should include the names of runaway slaves, the circumstance being noted in a column of remarks, in which also the manner in which the party was reduced to servitude, should be mentioned in every case.

4th. In respect to the sale of slaves of the same family separately, I have called upon the pundits in Lower Assam for a report, as I have reason to believe that it is already provided for by the Hindoo law.

5th. The separation of a husband and wife when they have been legally married and agree to live together, cannot by those laws take place, but it is a very common practice in Assam for masters to allow their female slaves to take husbands, who are not slaves, denominated Dhoka, when the connection is avowedly conditional and temporary.

6th. The exportation of slaves for purposes of trade is already illegal and may be prohibited without further reference.

*From Captain J. B. Neuville, Political Agent in Upper Assam, to  
Mr. David Scott, Agent to the Governor General, North Eastern  
Frontier, dated 26th July 1830.* No. 3.

I solicit your sanction to the introduction of some Regulations, calculated to lessen the evils entailed upon the class of slaves in Upper Assam without materially infringing the rights of property, already possessed by individuals,—upon which their domestic arrangement and comforts in great measure depend.

The masters of slaves at present possess and practise the right of selling them, their wives, and children, to separate bidders,—a system repugnant to humanity as it is subversive of all moral principle and which, while it is permitted to exist, must interfere to prevent or retard all views of general improvement in the habits and condition of the people.

I should propose a prohibition to all sale of slaves in future,—unless with the consent of the parties,—as inconsistent, with the spirit of the British Government and the regulations by which its internal jurisdiction is conducted,—as tending to encrease crime and to check all improvement, by the hopeless degradation of the individual and by loosening all the ties of natural affection and social existence. In order to give effect to this prohibition, I propose to require all slaves, or transfer of slaves to be made before the chiefs of khels or villages; who will be required to ascertain,—the consent of the persons sold to the transaction,—and that no forcible separation is allowed to be made in families between a man, and his wife, or woman permanently cohabiting with him, or between a mother and her children,—under a penalty of forfeiture, (in case of violation of the order) by the freedom of the party.

I should also propose, that all cases of great cruelty and oppression on the part of slave owners, towards their slaves might be subject to the same investigation by the heads of the villages (authorized by the police system to enquire into all abuses) and if fully proved to be visited by fine, or if of a confirmed and atrocious nature by the freedom of the sufferers.

Cases however are frequent where the owners are compelled by poverty to sell their slaves as a marketable property without reference to consent; in such the sale might take place before the parish meeting, which should be satisfied of the character of the purchaser and enforcing the prohibition against the division of a family.

I also beg to suggest that the slaves belonging to revenue or other public defaulters whose effects are confiscated, might be enrolled amongst the Government khats or in a district khel, allowing the estimated value to the owner to the credit of his account.

I also solicit your attention to the barbarous custom which prevails in this province of selling female children, not only by the Assamese *inter se*, but actually as an article of trade to the provinces, and request your sanction to its total abolition by proclamation under severe penalties.



No. 4. *From Captain A. White, Officiating Magistrate, Lower Assam, to Mr. D. Scott, Agent to the Governor General, North Eastern Frontier, dated 9th August, 1830.*

I have the honor to acknowledge the receipt of your letter of the 15th July calling upon me to state my opinion in regard to the condition of the slave population of Assam as compared with the mass of the community,—secondly as to the measures which may be expedient for the gradual or the immediate abolition of slavery in Assam.

1. From the returns made out, it appears that there are about eleven thousand slaves in Lower Assam, and about four thousand bondsmen, who in consideration of receiving a specific sum, mortgage their labour for a period of seven, fourteen or twenty years,—in the same manner as is common in Europe with adventurers to the Canadas, Van Dieman's Land, or elsewhere. Independent of this, there are a class of people, about three or four thousand in number, who voluntarily place themselves under the protection of the great men of the province, and work upon their estates,—approximating to slaves, in as much as they receive nothing but their maintenance,—but differing from them so far that they are at liberty to depart when they please. The existence of such a class, I conceive, has arisen from the disturbed state of society, which prevailed prior to the assumption of the Government by the British state, and may be gradually expected to diminish under a better regulated system.

2. From every enquiry that I have made, the condition of the slaves is nearly upon a par with that of the Agricultural labourer. They are employed in cultivating the lands of their masters, and receive a fair allowance of food and clothing. If a person possess many slaves, he only requires the labour of a few in rotation; and allows the others to engage in the cultivation of lands for the rent of which he becomes responsible, reserving to himself what profit there may be after allowing the slave a fair maintenance. The slave owner becomes responsible for any debts that the slave may contract, and possesses the power of selling him. With reference to his mental and physical qualities,—the price of a slave varies from fifteen to fifty rupees. The masters are understood to possess the power of inflicting corporal punishment, and occasionally there may be excesses in that way,—but in the course of my official duty as Magistrate, I have, generally speaking, had very few complaints of slaves against their masters; and it is by no means unusual, for masters to complain against their slaves on the ground of idleness, &c. Indeed the geographical position of Assam,—a narrow valley between two ranges of mountains,—operates as a practical check to any undue severity on the part of masters towards their slaves, as a day's journey will enable the latter to escape beyond their reach; and there are many complaints of their running away. As compared with the Paiks,—a superior class of cultivators, whose condition approximates to that of the Irish peasantry, the Scotch Highlanders prior to the introduction of sheep farming, and the French peasantry, under the operation of the Metayer system as prevailing through about the half of France at this day, inasmuch as that each peasant cultivates a certain portion of land with a permanent claim to possession on condition of paying his rent, or a certain share of the produce, with this difference in favour of the Assamese Paik that his is understood to be fixed;—I have found on enquiry amongst the Paiks that they scarcely

considered the condition of the slaves at all inferior to theirs, except that they did not possess their personal liberty. The field labours of the slaves, from what I have learnt, do not exceed those of the Paiks; and these are light indeed as compared with the agricultural population of Europe.

3. With reference to the whole population the number of the slaves may be estimated as one to twelve. From the recent census taken, the population of Lower Assam would appear to be about three hundred and fifty thousand people; and the adult slave population to be about eleven or twelve thousand, of whom it is calculated about quarter are married, allowing four births to one marriage; this would give altogether a slave population of twenty-seven thousand souls.

4. Although it has been shewn above, that the condition of the slaves as compared with the mass of the community is scarcely inferior,—yet with reference to its effects on society I am convinced the existence of slavery in Assam has had a most demoralizing tendency, as the course of my duty as a Magistrate has afforded me ample evidence, that wherever atrocious crimes were instigated by the higher ranks, the perpetrators have invariably been their slaves, and indeed it is very common with masters to employ their slaves in acts of theft and dacoity, reserving to themselves a share of the plunder; and I should therefore hail with joy any measures leading to its abolition, as being likely to have a beneficial effect in elevating the character of the population. But with reference to the very backward state of society in Assam, I should think it would be inexpedient to abolish slavery entirely, and that it would be better to modify the existing system by prohibiting the sale of slaves for life, and enacting that in future no contract of bondage for a longer period than seven or fourteen years should be held legal. At the same time encouragement might be held out to individuals to manumit their slaves, by the hope of obtaining titles and distinctions, of which the Assamese are very ambitious. In addition to this from a certain date, all children born, in a state of slavery, might be declared free.

5. An immediate abolition of the system of slavery and bondage, prevailing in Assam, would be apt to fail I am led to think from its inapplicability to the wants of the community and the shock it would give to established habits and usage. From the records of History, Jewish, Classical, Asiatic and European, it appears that slavery has every where prevailed, in the less advanced stages of civilization; and I apprehend, Assam according to European notions, may be considered as a country exhibiting a still ruder state of society. Here, generally speaking, the ryots cultivate only for the supply of their individual wants, and do not calculate upon a certain sale for their surplus produce. What fabrics of manufacture are produced, are generally the workmanship of the females of the family not the product of a separate class of men; and as yet the commerce of Assam is still in its infancy. Under these circumstances if a poor man wants a sum of money for a specific purpose, the only valuable article he can give in exchange, is his labour: and this the rich men naturally endeavour to secure permanently, by demanding a contract of slavery for life. Besides, here as elsewhere, in times of scarcity parents are wont to part with their children from a benevolent wish to preserve their lives. Were the country further advanced in the career of improvement, and capital more widely diffused, it appears to me that this system of slavery and bondage would gradually diminish of itself,—as the poor man would obtain a small advance on terms.

No. 5. *From Mr. D. Scott, Governor General's Agent North East Frontier, to Mr. George Swinton, Chief Secretary to Government, Fort William, dated 10th October, 1830.*

I have now the honor to submit a report on the state of slavery in Assam called for by your letter of the 30th of April and 16th September last, to which I have considered it proper to add a report from the Magistrate of Sylhet on the same subject, in consequence of its appearing from some of your despatches that Government was impressed with a belief that the condition of civil life in question was peculiar to, or much more prevalent in, Assam than in other parts of the British Territory in India;—throughout which, including the jurisdiction of the Supreme Courts, I need not say that slavery, as being consistent with the Hindoo and Mahomedan laws, is necessarily legal, and every where practised more or less.

2. For an account of the general condition of the slaves in Assam and Sylhet, I beg to refer\* to the accompanying copies of letters from the Magistrates of those districts. In the Zillah of Sylhet where slavery appears to prevail to an unusual extent, probably in consequence of the preponderance of the Mahomedan religion <sup>(\*)</sup> *and perhaps the easy circumstances of a large portion of the community constituting the independent Land-holders*, the proportion of slaves to free men would appear to amount to nearly 20 per cent. In Lower Assam, Captain White states the proportion to be about 8 per cent. but there appears to me to be some material error in this calculation, and I have reason to think that when the further explanation I have called for is received it will be reduced to about one half.

3. In the estimate of the number of slaves made by the Magistrate of Sylhet, and also, I conceive, in that for Assam, where the number is stated at twenty-seven thousand bondsmen are included, or persons mortgaging themselves for a sum of money, but retaining the right of redemption on repayment of the same; but as such persons are not slaves in the proper sense of the word, the following observations are not intended to apply to them, but to that portion of the servile class who are irredeemably sold together with their posterity.

4. Slavery being consistent with the Hindoo law, and the precept of making donations of slaves to pious men being frequently repeated, it must have been practised by that people from the remotest period. In Assam however the practice was considerably checked by a fiscal regulation which forbids the sale of males, on account of their being subject to a capitation tax. This prohibition does not extend to females who may sell themselves, if of full age, or be sold by their parents, provided the contract entered into be valid agreeably to the Hindoo law.

5. With exception to a few Naga female slaves that were valued as curiosities, and presented by the Mountain Chiefs to the King of Assam, the people of that country do not appear to have imported slaves. They were brought up in the house of the owner, or transferred by one master to another, or procured by purchase from the parents; while grown up women sometimes sold themselves.

6. By the Hindoo law a free-woman marrying a slave becomes herself a slave and gives birth to a servile progeny, but although this is the law, both in Bengal and Assam, masters, in the latter country, frequently permit their slaves to marry

\* Of these letters, that from the Magistrate of Sylhet is not forthcoming. The other seems No. 4 of this Appendix.

(\*) These words in italics are a marginal interpolation written in pencil by Mr. Scott.

free women, upon a special contract with the girl's father that the progeny shall be free. In cases of doubt, the ordinary rule is that, the children follow the condition of the parent, with whose relations the family resided,—a female slave giving birth to free children if she marry a free man and reside in his house; while they would be slaves if the husband went to live with her.

A good deal of litigation takes place in Assam on this subject: and as the pergunnah chowdries and corporations are very jealous of the abstraction of any portion of the male population and their detention as slaves, which would exonerate them from the payment of their quota of the pergunnah rate,—there is no danger of a man being unjustly debarred of his freedom; and it even sometimes happens, that a person who professes himself to be a slave, is emancipated by a decree of Court at the suit of the pergunnah corporation;—a fact which of itself shews how trifling an evil servitude is considered in Assam.

7. The price of a slave averages from 10 to 60 rupees; and in addition to the causes of variation assigned by Captain White, it is mainly influenced, amongst the Hindoos in the case of domestics, by their caste; those being of course of the greatest value whose purity of birth enables them to hand water, without contaminating it, to the higher classes. When ill-used by their mistresses, Hindoo girls of this description will sometimes, to spite them, forfeit their caste by some unclean act; and the mistress is often brought upon her knees before a domestic of value, to prevent the execution of such a threat.

8. The real value of slaves, except for domestic purposes, is very little, as farm business is conducted in Assam. They are usually exceedingly idle, and when they become numerous the master is even put to expence on their account, as he must under all circumstances feed them, and provide for the expences incidental to their births, marriages, deaths, and all other religious ceremonies, which they perform with the same regularity as the free population. To sell them is considered highly discreditable and indicative of the total ruin of the master, and under such circumstances it is not improbable, that masters might be occasionally induced by the means suggested by Captain White, to emancipate a portion of their slaves.

9. In the poor and middling families the slaves and bondsmen are treated like the other inmates,—the same mess serving for the whole household, and both mistress and maid being entirely clothed in homespun manufactures. Amongst the rich they often obtain great influence, and rule the family affairs in the capacity of dewans.

Such persons frequently possess, by sufferance, farms and slaves of their own, and they are sometimes to be seen in Assam riding in a sort of palankeen, dressed in English Shawls, &c., in the style of the wakeels and officers of our Courts of Justice.

10. The practice of making concubines of their female slaves and of bringing up the offspring of such connections along with their other children is *not uncommon* <sup>(b)</sup> amongst the nobles and even the Kings of Assam; to whom in the public estimation these domestics are often greatly superior in purity of birth, and the servile classes are consequently in general treated by their masters with a degree of consideration, familiarity and kindness of which few examples are to be found in <sup>(c)</sup> *the intercourse between English masters and their hired servants*. They

(b) Originally "common."

(c) The words in italics constitute an amendment in pencil intended to be substituted for this sentence. "English society; much less hauteur being displayed in the intercourse between an Assamese noble of the highest rank and his slave than will be shewn by an English master even of the same rank with his hired servant."

are in fact regarded as adopted children, and the universal designation for a female slave, in Assam, is *betee* or daughter.

11. On the subject of Mahomedan slavery, which chiefly prevails in the district of Sylhet, I consider it unnecessary to offer many observations, since the laws by which it is regulated are *already well known*.<sup>(4)</sup> They appear to differ little from the divine precepts given on the same subject to the Jews, with exception to the periodical release of slaves of their own tribe. Those taken from other tribes are, however, on the other hand, more cordially adopted by the Mussulmans than they would appear to have been by the Jews. And,—as the practice of cohabiting with the females is not unusual on the part of the masters, when the birth of a child entitles the mother to her freedom, her offspring being at the same time allowed to share the family property along with the children of wives,—it must be needless for me to say that amongst the Mahomedans also this class of persons cannot possibly be in a very degraded state. *They are in fact as stated by the Magistrate of Sylhet, in many cases connected with, or related by the means already noticed to the rest of the family, of whom they are considered as inferior members: and even, where this is not the case, I have seldom heard them addressed by their masters by any other term than that of brother or son.* <sup>(5)</sup>

12. To the abolition of slavery, during the continuance of the existing state of society in India, there appear to be several weighty objections.

*First.* As I conclude that Government does not contemplate the measure without making compensation to individuals for the loss of a valuable description of private property, the expence would appear of itself to render it impracticable;—since the slaves and bondsmen in the two districts of Lower Assam and Sylhet only, cannot be valued at less than thirty or forty lacks of rupees.

*Secondly.* The Government being pledged to administer to the natives their own laws in matters of inheritance, contracts, &c., I am not aware how we could, with any consistency, infringe this principle by the abrogation of a practice so closely interwoven with the whole frame of society, and which is essential to the comfort and honor of the families of the higher classes, owing to the seclusion of their women, and to the early marriages of the lower orders,—which renders it impossible to hire, as in European countries, unmarried females as servants, or to procure them at all, except at an expence unsupportable to  $\frac{1}{30}$  of those, who, agreeably to existing usages, require such attendants; as is evinced by the fact that even in Calcutta, where there is a large Christian population and where caste is not a matter of importance, the hire of a woman servant is now nearly double that of an able-bodied man.

*Thirdly.* *It may reasonably be doubted* <sup>(6)</sup> whether the change would in reality be beneficial to the lower orders to an extent that would justify the adoption of a measure so unpopular with the higher classes. That, morally considered, the slaves are in a certain, but small, degree degraded,—must be admitted,—and also that in Assam they are of more dissolute and depraved habits than the free population. But in adverting to this latter defect it should be borne in mind that no less than one-fourth of the whole number consists of those who have sold themselves for debt, and who may therefore be reasonably presumed to have belonged originally to that imprudent and spendthrift class of society; which even in England is, generally

<sup>(4)</sup> Originally,—“to be found in Hamilton’s translation of *Hidāya*.”

<sup>(5)</sup> Marked for expunction by pencil lines.

<sup>(6)</sup> Originally “I doubt much.”

speaking, reduced to a condition of civil life, *differing only in name from* (s) *that of the Assamese bondsman, when they enlist in the army or navy,* (h) *or by conviction of a criminal offence become transportable to the colonies as the undisguised slaves of the crown.* Whether it is possible, even in highly civilized countries to dispense with the retention of this portion of society in a state of constrained servitude,—still remains to be proved; the experiment never having been fairly tried by the European states, where the armies, the navies, the *gallies* and the (h) colonies furnish receptacles for those, who are naturally incompetent to manage their own affairs and to preserve their personal independence. The people in this country have none of these resources; and the thriftless poor must consequently either starve or become the dependants of individuals, or in the capacity of criminals and debtors fill the public jails.

13. In physical condition it does not appear that the slaves are worse off than the peasantry of the country. If they cannot accumulate property (which however practically speaking is not the case),—neither can they suffer those evils from the total want of it, to which the freeman is subject. Nor should it be forgotten, with reference to the circumstances under which children are usually sold, that the probability is, that in many cases they would not even have been in existence, but for that contract, which at the expence of their personal liberty preserved their lives or those of their ancestors. Without therefore calling in question the theoretical advantages to be expected from the abolition of slavery in India, I am of opinion that the practical evil arising from its continuance is not of sufficient magnitude to justify our incurring by its abolition the following results:

Either an enormous outlay for the purchase of the vested rights of slave proprietors, or a spoliation of their property with its necessary consequences.

A breach of the engagement, always heretofore held sacred by the Government, that the natives were to enjoy their own laws and customs when not repugnant to humanity and good morals; which slavery cannot, with consistency, be said to be, by a nation professing Christianity,—since it was enjoined by God himself to his favoured people the Jews,—and since it is still only practised in India, in the mild spirit in which it was established.

The destruction of the consequence and comfort of the higher classes without any adequate benefit to the lower orders.

The necessity for Government to maintain in times of scarcity the starving poor,—a thing in itself perhaps impossible, and which would at any rate be productive of great abuse, and would in all probability be attended with consequences not less injurious to the character of the people, than those, which Captain White in his Report attributes to the prevalence of slavery in Assam.

14. The only change,—which it appears to me that it would be justifiable or desirable at present to attempt in favor of those already in bondage,—would be that of gradually substituting the state of servitude of the bondsman entitled to redemption for that of the slave absolute. And this I conceive might, to a certain extent, be effected, particularly in the case of agricultural labourers, by laying a tax of two or three rupees per annum upon the slave absolute; from which the bondsman should be exempt, provided the sum for which he was redeemable did not exceed forty

(s) Originally "not in reality dissimilar to."

(h) These words in italics denote interpolations in pencil.

rupees. I would at the same time open a compulsory registry of persons of both descriptions, leaving it optional with masters to enter their slaves absolute as redemptioners, if they thought fit to do so to avoid the tax,—the act being however legally binding on them and their heirs, and the slave thereby becoming entitled to all the privileges of the latter class.

15. Whether it might not be justifiable further to fix a price at which all slaves should be entitled to be emancipated, Government will be best able to judge. Such a law would, to a certain extent, be an invasion of private property, and might occasion alarm and irritation amongst the higher classes of the natives. But if something must be done at their expence, to satisfy the philanthropic feelings of the people of England, I should consider this, as the least objectionable measure that could be adopted, and as one which would also *seem likely to prove* <sup>(1)</sup> acceptable to the English public,—since it would afford to those who are zealous in the cause of emancipation an opportunity for the exercise of their benevolent views, by coming forward with the requisite funds.

16. The subject is however, one of such importance to the domestic comfort of the native community, that I should be sorry to submit these crude suggestions, except in the belief that before legislating upon it, Government will obtain not only the opinion of its European functionaries, but also that of a committee of intelligent natives; who are alone, in my opinion, competent to judge in regard to a matter,—in which the English portion of society have no personal interest nor any minute acquaintance,—and which is besides, in the case of female slavery, so much complicated with the delicate question of marriage and the internal economy of the Zinnana, (upon which the natives, both Hindoos and Mussulmans, are so exceedingly sensitive,) that I should despair of any modification of the existing law emanating from European legislators, that would be at all palatable to the upper and middling classes of the people.

17. Having now submitted the general information required, I take the liberty of offering some further explanation of the transaction alluded to in the extracts of a letter from the Honorable the Court of Directors that accompanied your despatch of the 16th ultimo, and which I regret to find has excited their displeasure.

18. With advertence to the observations contained in the preceding part of this address, I trust that it will appear that, in sanctioning, during a time of famine, the sale of males as slaves in Assam, I violated no law or custom that is in force in any other part of the British territories in India; but that I merely suspended the operation of a local fiscal regulation, enacted to prevent the abstraction of the Crown paykes or serfs, and the consequent diminution of the capitation tax. My proclamation had no other effect than that of waiving the claim of Government to the capitation tax upon persons, who might be compelled by famine to sell themselves as slaves: and it did not, as supposed by the Honorable Court, confer any validity or legality upon the contracts entered into, that they might not otherwise possess, agreeably to the provisions of the Hindoo and Mahomedan laws.

19. That the lives of many of the destitute persons, who in 1825 sold themselves in Assam, might have been preserved, without their being reduced to slavery by supplying them with food on the public account,—is very certain. But I doubt much, whether on application to Government for leave to expend twenty to thirty

(1) Originally "be no doubt very."

thousand rupees or even a much larger sum, in that way, would have been complied with *then* <sup>(1)</sup> while, as the distress was occasioned by a scanty crop it may be questioned whether any thing short of the importation of a large quantity of grain could have afforded <sup>(2)</sup> material relief. Importation was however impracticable at the time, the whole tonnage on the river, being required for the troops, and the evil admitted of no mitigation except that which might be derived from a diminution of individual consumption; to which I am aware of no means that could be more certainly and extensively conducive, than making it the interest of those who had grain, to divide it with those who had none.

20. That slavery in the usual acceptation of the word is repugnant to the feelings of Englishmen I am well aware. But the question in this case to be considered was not whether slavery should, under ordinary circumstances, be patronized and encouraged; but whether I should in deference to the speculative opinions of my own countrymen, and in defiance of the wishes and feelings of those who were alone interested in the result, doom to certain death hundreds, if not thousands, of a starving population by refusing them permission to obtain the means of saving their lives upon terms, which, to them at least, seemed advantageous. To the natives of the East, who are practically acquainted <sup>(1)</sup> with the effects of slavery, the *novel* prejudices of Europeans against that condition of civil life are quite unintelligible: and whatever motive I might have assigned for such a piece of cruelty, the Assamese would most undoubtedly have attributed it, to a sordid determination on the part of their <sup>(m)</sup> *new* masters, not to sacrifice any portion of the capitation tax, let the consequences to their subjects be what they might.

21. As many female children continue to be sold in Assam and instances occasionally occur of grown up women voluntarily selling themselves with the view of discharging a debt or relieving the wants of their parents or relations, I beg to be instructed whether it is the desire of Government, that the necessity for this practice should be removed by affording the means of subsistence to those, who may be reduced to have recourse to it for their own support or that of their offspring. I am afraid that any interference of the kind would lead to deception and great abuse. But as the Hon'ble the Court of Directors have suggested the adoption of the measure, I am induced to solicit the orders of His Lordship in Council on the subject, and should the principle be approved of, I will be prepared to submit such rules as appear to me to be best calculated to check the evils to which it may be expected to give rise.

22. For the serious consequences that might be expected to follow the unconditional abolition of the practice of selling children in Assam, I beg to refer to the Circular Orders of the Nizamut Adawlut of date the 14th October 1815, and the communication from the Superintendent of Police upon which they were founded. As a prospective measure, I think it might not be unadvisable, as suggested by Captain White, to prohibit all future sales except those subject to redemption, and to limit the period of bondage either to a term of years, or to the lives of persons in being at the time of making the contract, so that all unborn progeny should be free. I would allow grown up persons to sell themselves or to sell their children, as far as it might be consistent with their respective codes. But they should be

<sup>(1)</sup> Originally "at the time."

<sup>(2)</sup> The word *any* is here expunged.

<sup>(1)</sup> The italics denote correction in pencil.

<sup>(m)</sup> Originally "relentless."



disqualified from entailing servitude upon the progeny of their children, or upon their own immediate descendants born after one or both parents might become subject to bondage. Persons thus rendered subject to servitude should retain the right of redemption upon payment, in the case of grown up persons, of the principal sum advanced, and in that of young children of that sum, together with a reasonable compensation for the expence of bringing them up,—this additional allowance to be fixed by law and to be liable to be again gradually remitted according to the age the parties might have attained and the services they might consequently be presumed to have rendered to their masters\*.

*Abstract of a letter from the Agent to the Governor General to  
Mr. George Swinton, Chief Secretary to Government, dated 10th  
October, 1830.*

1. Submits copies of reports on slavery in Assam and Sylhet.
2. Condition and number of the slaves in those districts.
3. Bondsmen, included in the numbers specified, although they are not in reality slaves.
4. Period from which slavery has obtained amongst the Hindoos.
5. Means of obtaining slaves in Assam—importation not practised.
6. Other means of obtaining slaves.
7. Price of slaves and conditions by which it is regulated.
8. Real value of slaves, except for domestic purposes, very small.
9. Mode in which the slaves are treated by the lower and higher classes.
10. The female slaves are frequently kept as concubines. The consequences of such connections.
11. Mahomedan slavery—and the effects of the concubinage of the female slaves.
12. Abolition of slavery, and
13. The objections thereto, viz.  
The expence; the infringement of our compact to administer to the natives their own laws; the advantages to the lower orders inconsiderable whether reference be had to their moral or physical condition.
14. Proposes to tax slaves absolute, and by that means induce the masters to change their state of servitude into that of redemptioners.
15. Suggests the measure of fixing a price at which slaves might be emancipated.
16. Recommends that the subject should be referred to a committee of natives if Government intends legislating on it.
17. Submits some further explanation respecting the permission granted to sell slaves in Assam.

\* This letter though signed was not despatched by Mr. Scott. After his death, it was found amongst his papers, and the corrections and additions in pencil above noted indicate intended revision.

- Para. 18. The proclamation issued to that effect was consonant to the custom and practice of all our other Indian territories, and only abrogated for a time a local fiscal regulation.
- „ 19. Respecting the measure of supplying the natives of Assam with food in 1825, the probability of its being sanctioned and its consequences.
- „ 20. Slavery, although repugnant to the feelings of Englishmen, is not so to those of the natives of the country whose interests we must consult; and had the permission in question been withheld it would have been imputed by the latter to mercenary motive on the part of Government.
- „ 21. Female children being still sold in Assam,—requests the orders of Government on the subject of affording relief to their parents.
- „ 22. Is of opinion that prospectively a term of servitude might be fixed as proposed by Captain White: but that the total prohibition of future sales would be productive of the bad consequences referred to in the Orders of the Nizamut Adawlut of 14th October, 1815.

D. SCOTT,  
*Agent to the Governor General.*

*Extract of a letter from Mr. T. C. Robertson, Commissioner of Assam, to Secretary to Government, Judicial Department, dated 28th February, 1834.* No. 6.

4. This design has only been partly accomplished. But that the Government may see that it has not been neglected, I enclose copies of the following rules which I have drawn up in the English and Native languages for the guidance of the Courts and parties in suits.

No. 1. General rules of practice to be observed in the institution, trial, and decision of civil suits.

No. 2. Rules regarding mortgages of land and real property.

No. 3. Rules regarding bondsmen or persons, who may have pledged themselves in return for a sum of money borrowed by them.

No. 4. Rules regarding the sale of slaves in execution of decrees.

5. This last rule, although transmitted to the Assistant in charge of the province will not be acted on by him until he shall be apprized of its having received the confirmation of Government. To understand its object, it is necessary to bear in mind that daily labourers are not to be hired in Assam. To meet, therefore, the wants of the inhabitants of Gowhattee, a certain number of Payks are sent in according to an old custom from the southern Doars. For these men a corresponding remission of revenue is granted: but this is covered by the amount received from the individuals who hire these labourers at certain fixed rates from Government. This forms one of the departments of the Magistrate's office at Gowhattee; and the accounts are kept with the greatest regularity. Now by the

provisions of this rule, it is proposed to take advantage of this practice, in order to effect a partial but gradual emancipation of slaves with little apparent and no real expense to the state. For every slave bought in on account of Government when subjected to appraisement in satisfaction of a decree, a Payk less will be sent in from the Doars, and a corresponding increase will take place in the revenue paid by his superior to Government. This will do more than cover the interest of the sum expended in purchasing the slave; while the principal will unquestionably, if he lives for two or three years, be realized from the proceeds of his labour, after which he is to become a free man, having in the interim had a portion of the waste land around Gowhattee assigned to him; on which it is probable that he will then permanently settle.

6. I sincerely hope that Government will permit this experiment to be made both on account of the money decree-holders who cannot otherwise recover what is due to them unless we sanction the absolute sale of slaves by auction, and also for the sake of the slaves themselves. My predecessor's rules permitted the sale of slaves in satisfaction of decrees. This it will be seen from the IX Article of my 1st Rule, that I have modified,—in so far as to require the Assistant when applied to for the sale of slaves to make a previous reference in each case to this office. This rule having been construed by the people into a positive prohibition of the practice, many petitions were presented, and many individuals also spoke to me, on the subject of the great injury sustained by them from the interruption of the only process, by which, in many cases, the amount awarded can be realized. After much deliberation on the subject, I am of opinion, that the scheme embodied in the rule under consideration, is the only one by which we can without positive injustice and disregard of rights of property avoid the objectionable measure of permitting slaves to be seized and sold in satisfaction of decrees of Courts.

No. 6. A.

*Extract Rules enclosed in above.*

Section IX.

If claimants petition that the slaves of debtors may be attached, the Assistant is to make arrangements to prevent the escape of such slaves, and transmit a report by Roobakaree to the Commissioner,—who will issue such orders as the case may appear to require.

No. 6. B.

*Rule regarding Bondsmen.*

1st. If any individual has become or shall hereafter become bound to serve another in return for a certain sum of money during any clearly specified term of years, such a transaction shall be accounted legal and be upheld accordingly.

2nd. If however any individual has become or shall become bound to serve in like manner for an unlimited term of years under a general condition that his or

her bondage is to continue, until a certain sum of money be repaid. Then on a suit being instituted, by a person so situated, for his or her release, the Court, before which it may be tried, shall,—after fixing the price of the plaintiff's labour and deducting therefrom what may be esteemed a fair equivalent for maintenance,—carry the balance to the credit of the plaintiff. Whenever the sum total thus credited shall suffice to extinguish the original debt with legal interest,—or whenever a plaintiff shall pay up whatever may be wanting in the amount thus carried to his or her credit to effect such extinction of the said debt,—in either case the Court shall award to such plaintiff an entire discharge and liberation from his or her bondage.

3d. To prevent protracted investigations, as well as to protect masters from vindictive prosecutions, it is further enacted,—that no master shall be required to account for any sum that may be carried to the credit of a plaintiff under the provisions of this rule, in excess of the amount of the original debt with legal interest,—and that no suit shall be entertained that may be instituted by a liberated bondsman for an amount alleged to be due to him on account of labour performed during the term of his bondage.

*Rule regarding the sale of Slaves in satisfaction of decrees of Court.*

No. 6. C.

When a plaintiff shall point out slaves for sale in execution of a decree,—then the Assistant is empowered, if he judge it advisable,—upon such person or persons being proved to be, according to the customs of the country, the property of the insolvent defendant,—to cause them to be appraised, and to pay a sum equivalent to their estimated value to the plaintiff in satisfaction of his decree.

To indemnify Government for the sum thus disbursed, slaves thus coming into its possession are to be employed on public works instead of the Payks furnished under the present settlement from the southern Doars. And the Assistant is further authorized to hire them out to individuals requiring them at the following rates, viz.

Men nine pice per day.

Women six pice per day.

Boys and girls four pice per day.

The sum to be thus realized is,—after paying whatever may be the cost of their subsistence,—to be carried to the credit of each individual slave: and such slave is to be held entitled to emancipation, upon the principal of the sum originally paid by Government on his account to the plaintiff being made good.

Slaves employed on public works, are to have credit given to them for a sum, equal to what their labour would have yielded had they been hired out to individuals.

When the Assistant does not consider it advisable to act upon the discretion allowed him by this rule, he shall, on application being made to him, for the sale of slaves proceed as directed by Article 9th of the Instructions of the 9th November 1833.

- No. 7. *Extract of a letter from Secretary to Government, Judicial Department, dated 25th August, 1834, to Captain F. Jenkins, Commissioner of Assam.*

Para. 9. The subject of the state of slavery and bondsmen will be taken into consideration hereafter. In the mean time, the Vice President in Council desires, that the Courts will abstain from selling slaves in satisfaction of decrees or for any other object. The sale of slaves in satisfaction of Government revenue was prohibited some years ago.

- No. 8. *Extract of a letter from Captain F. Jenkins, Commissioner of Assam, to Secretary to Government of Bengal, Judicial Department, dated 10th May, 1835.*

Para. 23. No other observations occur to me at present, to which I have to request the attention of the Government, than that on the state of slavery and bondage referred to in the 9th paragraph of Mr. Macsween's letter of the 25th August last, No. 1705. I have not as yet received the instructions of Government. The subject, I am aware, is one of the greatest difficulty and delicacy with reference to some of the classes of our subjects. But I think in Assam, some enactments for the gradual emancipation of slaves and bondsmen might be introduced with comparative facility and safety—and I would respectfully beg to request the attention of Government to the correspondence of my predecessors to which the above quoted paragraph was a reply.

- No. 9. *Extract Section X from the Original Draft Rules for the administration of Civil Justice in Assam.*

## SECTION X.

### SLAVERY.

Clause 1st. A proclamation shall be issued, calling upon all persons having claims upon others as being their slaves or bondsmen to register the names of such alleged slaves or bondsmen in the office of the Assistant in charge of the division, in which they live, within the period of six months,—under the penalty of forfeiture of all claim on those whose names they shall omit to register as required.

Clause 2nd. Those only shall be held to be absolute slaves, whose own servitude, or that of their progenitors, can be proved to have originated prior to the day of 1817, which is understood to be the date of the Burmese invasion of Assam. But the sale or alienation of such slaves, excepting with their

own concurrence by their actual masters to any other person, is declared to be illegal and invalid.

Clause 3rd. All slaves, whose own servitude or that of their progenitors has commenced subsequently to the Burmese invasion as above defined, shall be accounted redeemable bondsmen entitled to obtain their enfranchisement, under the conditions and in the manner hereinafter indicated.

Clause 4th. The offspring of slaves or bondsmen of every class, born after the date of the proclamation enjoined in Clause 1st, are to become free on attaining the age of 18 years.

Clause 5th. Any slave owner who shall be proved before a competent authority to have maimed, wounded or otherwise grossly ill-treated his or her slave or bondsman, or to have sent or attempted to send such slave or bondsmen out of the province, shall be declared to have forfeited all dominion over such slave or bondsman who shall be thereon liberated.

Clause 6th. Any slave owner convicted of having derived profit by letting out a female slave for the purpose of prostitution shall in like manner forfeit all claim over such slave, who is thereon to be declared free.

Clause 7th. The sale of children by their parents is not prohibited. But it is to be understood that children thus sold are, on attaining the age of 18 years, to become free.

Clause 8th. The legitimate offspring of a freeman are to be held free from their birth whatever may have been the condition of the mother: and no claim against any married female as a slave is to be admitted, if it be not preferred at the time of the marriage or as soon after as circumstances would permit.

Clause 9th. The direct sale of slaves in satisfaction of decrees of Court is prohibited. But slaves or bondsmen may be transferred with their own concurrence to a plaintiff who may have obtained a decree against their master or owner at a price to be settled between the said plaintiff and the owner; but all slaves or bondsmen so transferred are to be enfranchised, on the liquidation,—by the estimated value of their labour, of the sum at which they were appraised,—or, in the event of that sum not being covered by their labour, at the expiration of the term of seven years.

Clause 10th. The slaves or bondsmen of a defaulter may in like manner be taken, with the sanction of the Commissioner, in satisfaction of the demands of Government for the public revenue and are to be entitled to their liberation,—on the sum, at which they were valued, being covered by the estimated price of their labour—or, at the expiration of the term of seven years. Slaves or bondsmen so taken, are to be employed on the Government Khats or farms.

Clause 11th. All engagements executed by a man or woman, whose age shall exceed 18 years, binding himself or herself to serve another for a term not exceeding seven years, shall have full force and effect and be maintained by the local authorities. But any contract to serve for a longer term of years, is hereby declared to be null and void.

Clause 12th. Any bondsman or slave entitled under Clause 3 to be regarded as a redeemable bondsman, wishing to obtain his or her liberty, may institute a suit for the same, against his or her master, in the Court of the Assistant in charge of the division,—in which the said master shall reside. And the Court, before which such suit may be tried, shall,—after determining the price of the plaintiff's labour, and deducting therefrom what may be esteemed a fair equivalent for maintenance,—carry the balance

to the credit of the plaintiff. Whenever in the case of a slave of the class described in Clause 3, the sum thus credited shall appear to constitute a fair return for expense incurred in the support and maintenance of such slave,—or whenever a plaintiff in such a suit shall pay up whatever may in the judgment of the Court be wanting to make up an adequate compensation to the master,—then such slave shall be decreed by the Court to be free. In like manner, if a bondsman be the plaintiff and the estimated value of his labour after a proper deduction for maintenance shall be found to equal the amount of the debt due to the defendant,—or if he shall pay up whatever may be wanting to effect the extinction of the debt,—then such plaintiff shall be decreed by the Court to be free.

Clause 13th. To prevent protracted investigations, as well as to protect masters from vindictive prosecutions, it is enacted—that no master shall be required to account for any sum, that may be carried to the credit of a plaintiff under the provisions of the preceding Clause, in excess of the amount, to which the said master shall, in the judgment of the Court, be held to be entitled,—and that no suit shall be entertained, that may be instituted by a liberated slave or bondsman, for an amount alleged to be due to him on account of labour performed during the term of his servitude or bondage.

Clause 14th. It shall be essential to the validity of every transaction, by which a slave or bondsman may be acquired or transferred, that the same be effected by a written instrument: and no such written instrument shall be received in evidence in any Court of justice, unless it has, within one month, from the date of its execution been duly registered in the office of the Assistant in charge of the district in which the party to whom the transfer or sale or engagement is made, may reside.

Clause 15th. Any sale, transfer, or engagement of a slave or bondsman not so registered, is to be in future held to be null and void.

No. 10. *Extract from enclosures of a\* letter dated 14th April, 1836, from Captain F. Jenkins, Commissioner, to Sudder Dewanny and Nizamut Adawlut, viz. opinions of Captain Matthie and Ensign Brodie on the said Original Draft Rules.*

#### OPINION OF CAPTAIN MATTHIE.

Para. 5. With reference to Clause 7th of Section X. on slavery that even under the Assam Government the sale of *male* children was strictly prohibited, and is so at present; and as our object is to gradually abrogate the system, and to prevent any misinterpretation of the enactment, I would suggest the clause be modified by inserting “female” beford the word children.

\* This letter of Captain Jenkins, also gave cover to the remarks of Captain A. Bogle, and those of himself. Both will be found in page 346.7 of the volume of papers on slavery in India, 1838.

## OPINION OF ENSIGN T. BRODIE.

Section 10. Clause 7. This clause seems to be founded on the supposition that parents have already the power to sell their children. But this is not the fact, with respect to the male offspring of freemen. These owed their service to the state under the Assam Government, and could not be sold; and if the power be now given to parents to dispose of the services of their male offspring, till they reach the age of eighteen years,—I beg to submit that they be prohibited altogether from disposing of the females of their families. Apprenticing females till eighteen years of age in a country such as India, appears to me to be open to many objections, which will readily suggest themselves to any one upon reflection. I should also beg to suggest that the female children of slaves, born after the date of the proclamation enjoined in the 1st Clause, be declared free on attaining the age of ten or twelve years, instead of eighteen, as specified in the 4th Clause,—which would enable the parents to bestow them in marriage, according to their own inclinations.

*Extract of a Minute by Mr. T. C. Robertson, Judge of the Sudder  
Dewanny Adawlut, dated 24th June, 1836.*

No. 11

In the rules for the Civil Department, several important alterations have been made in pursuance of their suggestions upon the draft as originally submitted to the consideration of the officers in Assam.

Of these, the most important, are those connected with the different questions of slavery. In this section, I have, in deference, chiefly to the opinion of Captain Jenkins, struck out the 2d, 9th and 10th Clauses of the Original Draft, modified the 6th and 7th Clauses, and added a clause providing for the punishment of parties convicted of harbouring run away slaves.

I have some slight doubt as to the modification of the 8th Clause of the Original Draft (which in the Draft\* now submitted is the 7th) and have marked with inverted commas, a passage upon which I am anxious to have the opinion of my colleagues. I have, it will be observed, retained the Clause No. 6 of the Original, and No. 5 of the Amended Draft, notwithstanding Captain Jenkins's opinion recorded against it. My reason for retaining it is that, Captain Rutherford, whose knowledge of the people of Assam is more minute and extensive than that of any officer who has ever been employed in the province,—was, I well remember, strongly in favor of such a provision being inserted in any rule that might be passed on the subject of slavery.

It is not without reluctance that I have struck out Clauses 9 and 10; from the operation of which, I was inclined to hope for much being effected towards the gradual extinction of slavery. There is however, I must admit, much force in Captain Jenkins's argument on this point, though I hope, that if the other provisions of this section are found to work beneficially, these two clauses may at some future period be added to the rule.

\* This Amended Draft will be found in page 347, *Slavery in India*, papers published by order of the House of Commons in 1828.



No. 12. *Extract of a letter\* from Secretary to the Government of Bengal to the Register of the Sudder Dewanny and Nizamut Adawlut, dated 25th October, 1836.*

Para. 19. Captain Jenkins will consider the requisition conveyed by para. 4 of my letter of the 4th of June 1835, to be still in force. The Court will be pleased to hand up with an expression of their sentiments any drafts of "enactments for the gradual emancipation of slaves and bondsmen" which he may submit.

No. 13. *From J. F. Hawkins, Esq. Register Sudder Dewanny and Nizamut Adawlut, Fort William, to Officiating Secretary to Government of Bengal, Judicial Department, dated 14th April, 1838.*

SUDDER DEWANNY AND NIZAMUT ADAWLUT.

*Present.*

R. H. Rattray,	} Esqrs.
W. Braddon,...	
N. J. Hallid,	
<i>Judges,</i>	
W. Money, and	} Esqrs.
J. R. Hutchinson,	
Tempy. Judges,...	

Having laid your letter No. 385, together with its enclosures, before the Court, I am directed to request that you will submit the following observations for the consideration of His Honor the Deputy Governor.

2. The principles recognized and the objects kept in view, in the provisions of the X. Section of the proposed rules for the Civil and Criminal administration of Assam submitted for the consideration of Government with my predecessor's letter No. 1648, dated the 29th July 1836, were the amelioration of the actual condition of the slave population of Assam, and the present restriction with a view to the ultimate extinction of slavery in that province.

3. In reply it was observed at the 11th paragraph of Mr. Secretary Mangles' letter No. 1855, dated the 25th October 1836,—“His Lordship is not prepared

\* Section X. “From the date on which these rules of practice shall come into operation in Assam, all Courts of Justice shall hold all sales of persons as slaves to be illegal and void; and no suit to reclaim the services, as a bondsman or woman, of the person so sold, shall be received in any Court on the plaint of any party.”

to pass this Section.\* The subject is one of great and general importance, and must be taken up, as a whole, by the Supreme Government. But he considers it to be within his competence to declare that all sales of persons as slaves shall be illegal and void from the date on which these rules of practice shall come into operation in Assam.” The Section, therefore, will stand as on the margin.

4. With reference to a Minute recorded by Mr. Robertson on the subject of Section X. as above amended, the Court were induced to suggest to Government, in their letter No. 2648, dated 11th November 1836, the expediency of a reference to the local authorities, ere proceeding to promulgate it as the law for future observance.

\* Paragraph 11 of this letter is printed in the volume of “Slavery in India 1838,” p. 348, No. 35.

5. Mr. Secretary Mangles in his letter No. 2080 of the 22d idem, forwarded to the Court a further amendment of Section X. as per margin;\* with instructions to the Court, if they saw no objections to such a step, to print and promulgate the whole of the rules without further delay.

\* IX. "From and after the date on which these rules of practice shall be promulgated in Assam, all sales of persons as slaves, not being transactions whereby an individual of mature age voluntarily binds himself or herself, in return for value received, to render personal service to another, shall be deemed illegal and void; and no suit to reclaim the services of a slave, or bondsman, or bondswoman, so sold after the date above specified, shall be received in any Court, on the plaint of any person. Provided, however, that nothing in this Section contained shall be held to relate to voluntary obligations of personal service of the nature above indicated, otherwise than to render the transfer of such service to a third party, after the date of the promulgation aforesaid, illegal and void; provided also, that this prohibition shall not be construed to extend to any sale that may have been regularly executed according to the law of the province or established usage previously to the promulgation aforesaid; and the several Courts of Justice are empowered and directed to entertain such suits, as heretofore; and in deciding the same, the Courts are to be governed by the law and usage under which the said sales were made."

6. The Court however were still of opinion (see their Register's letter No. 2781, dated 2d December, 1836) that the sentiments of the Local Authorities should be taken, ere proceeding to the adoption of the amendment. They at the same time expressed a doubt as to the legality of legislating on the question of slavery without a previous reference to the Home Authorities.

7. The Government in the Secretary's reply No. 2142, dated 6th December, 1836, directed the proposed reference to be made to the Local Authorities, which was accordingly done.

8. With his letter No. 87, dated the 24th May, 1837, the Commissioner of Assam submitted his own sentiments, and those of his subordinates,\* on the subject of reference. For the reasons stated in the sixth paragraph of his letter, Captain Jenkins is adverse to the adoption of the amendment proposed in Mr. Mangles's letter of the 22d November, 1836. The several officers under the Commissioner are of opinion, that the rules of Section 10, as they originally stood, might have been safely enacted, and Ensign Brodie under the impression that Government had finally decided against them, considers that the Section as modified in Mr. Secretary Mangles' letter of the 22d November can be productive of no mischief, and that it is expedient to promulgate it, for the reasons therein stated: on the receipt of these opinions, Captain Jenkins was requested to prepare and submit a draft of the rules, which he would propose for enactment. To this call, he replied in his letter No. 129,† dated 22d July last, in which he referred the Court to certain rules already submitted by him. As these rules appeared to have been forwarded direct to Government, the Court deemed it advisable to request Captain Jenkins to prepare, and submit a draft for the consideration of the Court. This was done, and the draft received with the Commissioner's letter No. 169, dated the 25th November last, accompanied by the correspondence which had passed between himself and his subordinates in the year 1835, and which was submitted direct to Government with his letter of the 22d August, 1835.

\* Copies herewith submitted.

† Copy sent.

9. The rules of which the Commissioner has forwarded a draft, have mainly the same objects in view, as those formerly submitted to Government by the Court, viz. the present mitigation and general abolition of slavery. And in the event of legislation on the subject, irrespective of the previous sanction of the Home Authorities to the particular rules proposed for adoption, being considered within the competence of the Local Government, the Court, with reference to the sentiments of the authorities in Assam, which are entitled to the fullest consideration, and the reasons stated by Mr. Robertson in the Minute abovementioned, in which the Court concur, are still of opinion, that those objects should be strictly kept in view, in

legislating on so important a subject with regard to a country in which it is stated that the greater portion of the property of the wealthier classes consists of slaves, and in which a declaration of immediate emancipation, or an absolute prospective interdiction of slavery and bondage must be attended with serious detriment and loss.

10. In submitting the rules forwarded by Captain Jenkins, the Court desire me to add that they are not prepared to coincide in all the minor details of the provisions contained in them. Some of them (such as those which relate to the subject of corporal punishment) they consider may be advantageously altered, and the wording in parts may be considerably improved. They direct me, however, to forward them just as they were received for the consideration of His Honor: and on the determination by His Honor of the principles to be observed in legislating on the subject, and in the event of the approval generally of the rules submitted, they can be altered and corrected under the instructions of the Court, on their being returned to the Court for that purpose.

*From Captain F. Jenkins, Commissioner of Circuit, Assam, to Register of the Sudder Dewanny Adawlut, Fort William, dated 24th May, 1837.*

In obedience to the instructions contained in the second paragraph of your letter, No. 3086, of the 30th December last, I have now the honour to forward the letters as per margin,\* submitting the opinions of my Assistants on the 10th Section of the original rules.

\* Captain Bogle's, 26th April.  
Ensign Brodie's, 27th April.  
Lieutenant Vetch's, 29th do.  
Captain Davidson's, 1st May.

2. Captain Bogle referring to his letter of the 5th April, which was forwarded to the Court with my letter No. 52 of the 14th April, 1836, is of opinion that with the amendments then suggested, the proposed rules might be easily enacted; but at the same time he expresses himself in the strongest manner against the policy and propriety of the Government interference except by prospective and very gradual measures. Captain Bogle further recommends that the original clauses regarding bondsinen should be maintained.

3. Ensign Brodie under the supposition that his opinion was only required upon the clauses proposed and modified in Mr. Secretary Mangles' letters of the 25th October and 22d November 1836, merely expresses his entire approval of the clause as altered in the latter letter.

4. Lieutenant Vetch considers it proper that rules to the effect of those proposed should be promulgated, but suggests several amendments thereof, and details his reasons for suggesting the alterations he recommends.

5. Captain Davidson also advocates the enactment of the rules with some alteration proposed by himself.

6. I have attentively reconsidered the originally proposed rules and the observations I had the honor to submit in my letter of the 14th April, and I am of opinion that with the alterations and additions suggested by me, it would be preferable to enact those rules rather than the revised Section in Mr. Secretary Mangles' letter of the 22d November as this makes no provision for the eventual release of any persons now held, or who may be born in slavery, and prohibits all sales in future of children under any circumstances. Such an enactment might, I fear, be attended with baneful effects in times of famine, and to the families of some of the miserable and degraded classes which are to be found in all communities.

7. On the whole, I am very much inclined to recommend that only the enactments regarding bondsmen should be promulgated, leaving the subject of slavery to be taken up whenever the legislature is prepared to issue any general regulations for the empire. I consider that the Government by withholding a regulation making it legal to have recourse to the Criminal Courts for the apprehension and restitution of slaves, have virtually abolished slavery. The means of escape from their owners being so easy, and the difficulty and expense of recovery through the Civil Court being so great, that no slaves, above the age of childhood, need be detained in bondage, except with their own free will.

*From Lieutenant Hamilton Vetch, Junior Assistant, in Civil Charge of Durung, to Captain F. Jenkins, Commissioner of Assam, dated 29th April, 1837.*

In reply to the 2nd paragraph of your letter No. 100, under date the 5th instant, desiring me to state my opinion on the whole of the provisions contained in the 10th Section of the rules for the administration of civil justice that were forwarded from your office with your Circular No. 326, under date 28th November 1835, and on Section IX. in Mr. Secretary Mangles' letter to be substituted for it, I beg to submit as follows:

## SECTION X OF ABOVE QUOTED RULES.

### SLAVERY.

Clause 1st. I entirely concur with the provisions contained in this Clause.

Clause 2d. I object to this Clause, because the sale of slaves appears to have been sanctioned under certain provisions by the late Mr. Scott, Agent to the Governor General: and I think, sales contracted under these should be held valid, as all others effected previously if agreeable to the usages of Assam.

Clause 3d. The same objections apply here as to Clause 2d.

Clause 4th. In the provision of this Clause, I entirely concur, adding as per margin.\*

\* And in case of a female, her offspring by whatever father, before she has attained the age of eighteen years, to be declared free born.

Clause 5th. I entirely concur with the provisions made in this Clause.

Clause 6th. Ditto Ditto.

Clause 7th. Change the words, "the sale of children," and substitute as per margin,\* the rest to stand. This Clause is called for in Assam as a provision for destitute children to save them from starvation in event of famine, or the parents not being able to support them.

\* The bonding of children.

Clause 8th. For this Clause substitute as per margin.\* I conceive, this only the criterion to judge by in Assam, where to prove the father of a child begotten of a female slave would be difficult indeed.

\* The condition of the mother to decide that of the offspring.

Clause 9th; for—substitute as per margin.\* The object here gained will be putting an end to traffic in slaves. While every transfer will change a slave into a bondsman or woman, at the same time the owner will be accommodated, should poverty or other causes make a transfer desirable. The condition of the person so transferred is also likely to be improved during his or her bondage; as, if poverty be the object of the transfer, and no provision of this kind be made, the slave would have to share it with his master.

\* The sale of slaves to be illegal from the passing of these rules. But a slave may be disposed of as a bondsman or woman for a limited period not exceeding twelve years, at the expiration of which, he or she shall be declared free.

Clause 10th. I concur with the provisions in this Clause.

\* Twelve years.

For seven years in this Clause, substitute as per margin.\* The rest to stand. As provision is made that the contracting parties should be of sufficient age to know their own interest, I see no objection to extending the limit to twelve years. The annexed translation of a bond put in for registry will show, how far it is attempted to carry the system of bonding without rendering the transaction contrary to a rule of the late Commissioners; which required a limit to be specified in the bond to make it legal.

\* Any bondsman or woman wishing to obtain his or her freedom may institute a suit in the Summary Court for the same, and on proving that he or she has served as bondsman or woman for twelve years after attaining the age of six years, or if from infancy up to the age of eighteen years, the said service shall be considered an equivalent for the bond money, and he or she shall be declared free. But nothing in this is to hinder the bondsman or woman redeeming his or her freedom on tendering the sum originally borrowed at any period of the said service,—always provided two months notice is previously given to the bondholder,—and provided no term has been fixed in the bond for the release of the bondsman or woman, and which term shall not exceed twelve years.

Clause 12th. Substitute as per margin.\* It appears absolutely necessary to fix some limit to the period of bondage: otherwise it almost assumes the form of slavery, which it had nearly, if not altogether reached, before the promulgation of Mr. Robertson's rules on the redemption of bonds: at which time, the child or brother of a bondsman was considered by the custom of the country bound to service,—in the event of

the death of the father or brother,—or until the sum bonded was restored. As the unexpected redemption of a bondsman at the time of sowing or harvest may be attended with much loss to the owner, I consider a short warning to be necessary. Although I highly approve of the provision proposed in this Clause for the liquidation of the bond money, I think it would be simplified still further, if a limit was taken as now proposed instead: as this would prevent the institution of suits where the bondsman is, after enquiry, found not to be entitled to release; and such suits may be made a handle for vexatiously bringing the bondholder into Court, or to evade labour while the suit is pending.

Clause 13th. The change now recommended to be introduced into Clause 12th will render this Clause unnecessary.

Clause 14th. With this Clause, I entirely concur.

Clause 15th. Ditto Ditto.

My remarks on Clauses 9th, 11th, and 12th, are applicable to Section IX. in Mr. Secretary Mangles' letters, and with the modifications therein proposed, it might, I think, be adopted in Assam without proving very injurious to the interest of the slave-holder and would run nearly as follows:

Section IX. The sale of slaves to be illegal from the promulgation of these rules. But a slave may be transferred for value as bondsman or woman for a limited period not exceeding 12 years, at the expiration of which, he or she shall be declared free.

All engagements executed by an individual of mature age voluntarily bonding himself or herself in return for value received, to render personal service to another, for a period not exceeding twelve years, shall be legal and binding, but for a longer period such contract shall be illegal. Nevertheless, any parent may enter into a contract and bind his or her child for a period not extending beyond the age of eighteen years on the part of the person so bonded. But no transfer of service to be legal without the consent of all the contracting parties. Suits for breach of such contracts shall be entertained in the Courts of Justice competent to decide suits for breach of contract in other matters.

*Translated Bond above referred to, viz. obligation of Palone Koltah, the son of Thoolye, to Bryjonath Burrah Bundar, Boroowah, &c.*

I, Palone Koltah of Mahaul Noadooar, Mowzah Cheelabhandah, do, in this document write in the 1243 year B. S. for this purpose, that Dyahram, Sepoy of Mowzah Morahdull, residing in Daoree Gaw, having obtained a decree of Court on me, and my elder brother Boodoo, and Peonah, and Kattee, for the sum of nineteen rupees, and being much harassed for the same in consequence of our not being able to pay the amount decreed against us, I, with my own free will and at the request of my three relatives, abovementioned, to liquidate the aforesaid sum, have taken a loan from you of nineteen rupees; and in lieu of repayment, I bind myself as a bondsman for forty-one years to you under the following conditions. That you will feed and yearly clothe me with two Arreah dhooties, one jol gamasah and chalong; for this I promise, as customary, to instantly obey all the orders you may from time to time give me, when I shall, after the expiration of the four years above stated, be entitled to my release. The money for which I have now bonded myself shall be considered as liquidated by my services. But in the event of my dying before the expiration of the forty-one years above stated, then, one of three abovementioned relatives who may survive me, answerable with me for the same debt, and against whom the decree of Court for the same nineteen rupees is in force, shall become your bondsman, and work out the unexpired term of years. In event of issue by me and any of your female slaves, I disclaim all right to them, and they shall all be your property.

In confirmation, I hereby write and give this document, this 13th day of Falgoon.

<i>Witnesses.</i>	<i>Residence.</i>	
Rapooram Sirmah, } son of Halee Sirmah. }	Sakomatha,	The above, I have written willingly. Also my elder brother, Boodoo, and my brother Katteeram are both of them willing.
Monooram Patghrs, } son of Modhoooram. }	Mahal Chardooar Mowzah Mudphee.	
Sumboo Hazarec, } son of Koosoom. }	Mowzah Sutteeah.	
Sadee Burrah, } son of Chaw Seegah. }	Mowzah Cheelah- baundah.	(Sd.) PEONAH KOLTAH.
Jattee Bhogah Burrah, } son of Jewram. }	Mowzah Borabho- gceah.	
"Kaguttee" or writer } Locknath Sirmah, }		(A translation,)
son of Seebnath. }		(Signed) H. VETCH, Asst. Commissioner.

*From Lieutenant T. Brodie, Junior Assistant, in Civil Charge, Nowgong, to Captain F. Jenkins, Commissioner of Circuit, Assam, dated 27th April, 1837.*

I have the honor to acknowledge the receipt of your letter No. 100, dated the 5th instant, giving cover to a new code of rules for the administration of Civil and Criminal Justice in Assam, to come in force from the 1st proximo.

2d. In the 2nd paragraph, I am directed to give a report of my views and opinions on the whole of the provisions contained in the 10th Section of the rules for the administration of Civil Justice as forwarded from your office with your Circular No. 326, under date the 28th November, 1835, and the modifications proposed in Mr. Secretary Mangles' letter.

3d. It appears from the 11th para. of the Secretary's letter to the address of the Register of the Sudder Dewanny and Nizamut Adawlut, No. 1855, under date the 25th of October last, that the Right Honorable the Governor of Bengal is not prepared to pass the Section in question regarding slavery and bondage as it originally stood in consequence of the great and general importance of the subject, which in His Lordship's opinion should be taken up as a whole by the Supreme Government, but it is proposed to prohibit in future the transfer of slaves and bondsmen to third parties.

4th. If I understand the matter rightly it is as to the expediency of this latter proposition only that my opinion is required, but otherwise I need only say that the provisions of the Section as it originally stood seemed to be generally well adapted to put a gradual but complete end to slavery in Assam.

5th. With respect to the question now mooted as far as I have the means of knowing I believe that it is not a very common occurrence in this part of the country for slaves or bondsmen to be transferred from their owners to third parties, and as the Right Honorable the Governor has not thought it expedient at present to touch the general question whereby slavery was to have been extinguished, I am of opinion that the Section as modified in Mr. Secretary Mangles' letter No. 2080 dated 22d November last, can be productive of no mischief, and that it is expedient to promulgate it for the reasons stated in the 2d para. of the letter last quoted, namely, to discountenance the system of slavery in general, and to deprive that already existing of one of its worst features by disallowing the transfer by sale of property in persons.

6th. It may perhaps be useful to refer to the rules now in force regarding the transfer of slave property. Mr. Robertson's letter of the 28th July, 1833, to the address of the then Officiating Magistrate of Central Assam, authorizes the issue of a proclamation prohibiting the sale or mortgage of any individual, a native of Assam, to a foreigner, under pain of being punished by a fine not exceeding one hundred rupees, or in the event of the person so sold or mortgaged having been removed from his or her residence in progress to another country by imprisonment for a period not exceeding six months.

7th. Under orders of Government of date the 25th August, 1834, communicated in your Circular of the 12th September following, a proclamation was directed to be issued notifying that Government have prohibited the sale of slaves by any Court in Assam in satisfaction of decrees, or for any other purpose or transaction that might originate subsequent to the date of such proclamation and that henceforth no slaves should be sold in satisfaction of Government revenue.

7th. Besides these restrictions on the sale of slaves, I believe there are others to be found among the native proceedings of the late Mr. Scott: but I have not got them by me to refer to. But whether this be the case or not, I conceive that as Government have already gone the length of prohibiting the sale of slave property in satisfaction of a slave owner's lawful debts, it is neither unreasonable nor unjust that the same rule should be extended to prohibit the sale by the slave owner himself, for his own private benefit.

*From A. Davidson, Esquire, Officiating Magistrate Zillah Gawalparah, to Captain F. Jenkins, Commissioner 17th Division, Gowa-hattee, dated 16th May, 1837.*

After duly perusing Section 10 of the rules for the administration of Civil and Criminal justice in Assam, I beg to submit the following remarks as required by Government.

Section X.

Clause 1st. I would add,—that the mere fact of registering a person as a bondsman or slave should not be considered evidence in my Court, as proof of the fact,—and further, that when parties wish to register others as slaves or bondsmen, the said slaves or bondsmen should be produced in Court and proof given of their identity; as I have known instances when one man has been produced in Court in place of another to confess himself a slave.

Clause 2d. The concurrence of the slave or bondsman ought to be made in open Court before European Officer, and registered. Also proof of identity should be given.

Clause 3d. No remark.

Clause 4th. Ditto.

Clause 5th. Ditto.

Clause 6th. By this clause which is essential, all women, who are now compelled by their owners to prostitution, will become free,—as ninety-nine out of the hundred are slave girls or bondswomen both in Gawalparah and Assam.

Clause 7th. It would, in my opinion, be better if the age were limited to fifteen as most women become mothers before they reach the age of eighteen.

Clause 8th. No remark.

Clause 9th. The concurrence of slaves or bondsmen to be made in Court and registered; and there it might then be proved how many years of servitude was unexpired.

Clause 10th. No remark.

Clause 11th. Such contracts to be acknowledged in open Court and registered.

Clause 12th. In cases where the bondsmen or slaves were longer than seven years with the party claiming them, the said party to pay all expences of suit.

Clause 13th. I am of opinion that the Government should fix a certain sum per month as credit against the sum advanced to the bondsman or slave. Beyond this, he would be entitled to food and clothing.

Clause 14th. No remark.

Clause 15th. No remark.



*From Captain A. Bogle, Assistant Commissioner, Zillah Kamroop, to Captain F. Jenkins, Commissioner of Circuit, Gowahattee, dated 26th April, 1838.*

In reply to your letter of the 5th instant, requiring my opinion on the slavery clauses of the proposed Rules of Practice received with your letter of the 28th November 1835, and the modifications now suggested,—I beg leave to refer you to my sentiments on Section X as it formerly stood in my letter of 5th April 1836, paras. 24, 25, 26, 27, 28 and 29,—wherein I remarked, that with a few amendments, the rules might be safely enacted.

2d. By this, however, I would not have it supposed, that I am an advocate for immediate emancipation; and I take this opportunity of observing, that I greatly doubt both the policy and propriety of any Government interfering with property of which its subjects have been in the full enjoyment for a long series of years,—even although the property in question be human beings, and the acts of the British Legislature afford a precedent,—always provided that the possession has been legally obtained. At the same time, the Province of Assam having been annexed to British India by conquest,—the right of Government to make any enactments it pleases will scarcely admit of dispute.

3rd. It must, however, be borne in mind that the chief wealth of all the respectable people in Assam consists in the slaves they possess. Land is abundant, but it is only of value in proportion to the means of cultivating it: and although the inconvenience attending the emancipation of all the slaves in this province would ultimately create its own remedy, in the mean time the change would cause much embarrassment to the greater part of the better classes. The first families in the country would be reduced to poverty, and it is probable that the condition of the slaves would not be materially improved.

4th. I must further observe that the question in no way presses upon the Government,—so as to render it necessary to introduce any such sweeping measure, as emancipation. On the contrary so far from Assam standing particularly in need of such an alteration in the established customs of the country, there is perhaps no part of India where greater care has been taken at the Government expence to reduce the number of persons in slavery, to just and legal bounds. I allude to the investigation respecting slaves which took place some years ago; in which,—although great roguery was practised and the humane intentions of Government were less conspicuous than the attempt to make the proceeding a source of revenue,—some good was effected.

5th. Should Government, notwithstanding, that this is the case, be desirous of enforcing a general measure of emancipation,—I have only to say, that there is no fear of the peace of the country being disturbed: and of course it follows, that the restrictions on the sale of slaves proposed in Mr. Mangles' letter of the 22d Nov. may be enacted without danger. But I think they had better be confined to the case of registered slaves born since the treaty of Yandaboo: and a rule prohibiting the forcible separation of members of a family whether born before or after the above date,—such separation being most revolting to the feelings,—should be passed and strictly enforced. The entire abolition of sales might be attended with inconveniences, which it seems scarcely necessary to encounter.

6th. The case of bondsmen, however, is entirely different; and I regret to observe that in the new rules no provisions regarding it have been inserted; which I think, calls for immediate remedy: for the Civil Courts have long been employed in investigating such cases upon the authority of a rule passed by Mr. Robertson, of which I annex a copy, and I find that two hundred and eleven cases have been decided, and there are now on the file, and nearly ready, three hundred and fifty-five more.

7th. Soon after I came to this district, I found,—that, the practice, of entering into engagements to serve either for a period of years or until a certain sum of money should be repaid, had very generally obtained (and it still exists), and where money had thus been given in advance for services to be rendered, that the descendants of the person pledging him or herself were detained in bondage even to the third or fourth generation; which appeared to me so very unfair that I addressed the Commissioner on the subject. Copy of my letter is appended,\* and I have always considered it as a most fortunate event that I was instrumental in procuring, amongst other improvements, the enactment of a rule so favorable to persons in the above predicament,—by which their services could be weighed in the scale against the money advanced for them.

I beg to draw attention to the fact that amongst the advantages, which I contemplated, was the inducing all persons engaging with bondsmen to execute written engagement with them, which should clearly specify the nature of the transaction; and another was to cause the masters to treat the bondsmen so kindly, that they should not be tempted to come into Court. I have reason to believe that both these objects have been very fully attained, and I have now strongly to recommend that Clauses 11, 12, 13, 14 and 15 of the original rules be maintained. Otherwise, the Courts will be placed in a very awkward position, and there will be no restraint upon the illegal proceedings of parties employing bondsmen, which have frequently been of such a character, that they have not even attempted to defend them when once brought under investigation, but have resigned all claims to further servitude.

*\* Enclosure of above being Letter from Captain A. Bogle, Officiating Collector, Lower Assam, to Mr. T. C. Robertson, Commissioner of Revenue, Gowahatty, dated 23th January, 1834.*

In submitting the accompanying Urzee from the Punchaits, together with my remarks respecting the rules of practice received from your office, I think it proper to draw your notice to the following points.

2. First to decrees on the Raj. It has been the custom to entertain plaints of the most indefinite nature, with no further specification of the defendants than the insertion of a few names, and *Ghairo Raj*. On this the merits of the case have been tried and decrees passed in the same indefinite manner, and levied by a Burgoonee or Mahtoot on the whole purgunnah. Where the purgunnah lay,—became a second subject of consideration: and when we bear in mind, that it was probably composed of thirty or forty detached Mouzahs scattered all over the country from Durrung to Gawalparah, a large portion of the population of which may have been entirely changed since the transaction took place, or from other causes quite ignorant of the affair,—further remark on this head, seems unnecessary to shew, the ruinous consequences that must ensue by attempting to levy decrees of this nature. The first of them is to require payment from those who never borrowed.

3rd. For the future it is easy to provide. But respecting the past there are some obvious difficulties. I would however recommend that in no instance whatever shall any person be called on to pay whose name is neither in the plaint or decree, and who has consequently never been served with a notice of the suit. Should this throw a sum borrowed by the *Raj* on the shoulders of only a part of the borrowers, they have the power to sue for the remainder of their proper shares.

4th. The next point is the legal rate of interest, at present 48 per cent. This, I am of opinion, may be safely reduced to one-half.

5th. The third is one of even more importance. It relates to Banda Mattee or mortgaged lands.

6th. The Pykes having all had certain quantities of land assigned to them by the former Government under the denomination of Gao and Jumma Mattee,—it often happened that they borrowed money and placed their lands in pawn,—generally engaging to pay the revenue although the lender reaped all the fruits of the soil. The revenue they considered as in fact the interest of the loan.

7th. As respects the question of right involved in a case of this kind, it is simple. The land was in a manner the Pykes': for although it was considered the property of the state yet from long occupation it had in fact become a fixed possession which it was optional with the Pyke to place for a time in charge of another. If, provident, he would of course have made an agreement as to the number of years his creditor was to enjoy it. Generally speaking, however, this was entirely omitted and the land passed away for ever or at least until the money was repaid. These lands are now often claimed, and it seems but right that the Courts should have the power,—to estimate the value of the annual crops according to the average produce of similar lands in the same neighbourhood:—and whenever it may be proved that the creditor has held them long enough to have repaid himself, the amount lent with all costs, to set the lands free.

8th. In a revenue point of view, the necessity for a fixed rule,—as to who is to pay the tax on mortgaged lands,—is urgently required. If the poor Pyke who has given up his birthright to the rich man is still obliged to pay the revenue for lands in the possession of another,—it is clear that he must often fail and abscond: and when this is the case, the deficiency in the Chowdree's collections will be made up by a Bargoonee on the rest of the village, he himself probably holding the lands rent free: which leads to the usual ruinous results: and in whichever way we look at the matter, it is evident the Government revenues and the prosperity of the country must alike suffer to a dreadful extent.

9th. The only argument, I have ever heard, against demanding the land tax from the actual cultivator or mortgager, is,—that the revenue which the debtor engaged to pay was in lieu of interest, and that the money was lent on an understanding that the land should not be burthened with revenue. But to make an agreement for any thing except the proceeds of the lands itself was clearly beyond the legal power of the Pyke. For on the land alone, can the Government dues be collected: and he had no right to detach the assessment from it. Any man may privately agree to pay his neighbour's tax: but if he fails, the possessor of the property taxed must make it good.

10th. The natural result of crying down the system of detaching the revenue from the soil is that the creditor will reimburse himself for its amount by retaining the land a longer period. It does not appear to me that he will be a loser. I therefore propose that the Collector shall henceforth merely look to the person in pos-

session of the land for the revenue and be authorized to levy from him, leaving it to the parties concerned to settle the difference amongst themselves. Without this I see not how the tax is to be collected.

11th. I next beg to notice the case of bondsmen; with respect to whom I venture to hope that powers, to set them free, may in certain cases be vested in the Civil Courts.

12th. I have known instances in which not only men and women were retained in a state of slavery for their life time for a very small sum, but their children also, unless a fortunate chance placed it within their power to pay off the original loan with interest,—which considering the high rate of interest in Assam, can but rarely happen.

13th. This is a lamentable state of things, and it does not appear to me inconsistent with justice, that the Courts should have the power to set off the value of the bondsman's labor against the amount of defendant's claim and when the balance is in his favor to liberate him.

14th. The value of labor is about two Sicca rupees a month. The price of maintenance and clothing about one rupee. Thus, if the general rule were to value the bondsman's services at one rupee a month, a prospect of his eventual liberation would be opened to him.

15th. No rule could of course affect cases in which it might be proved that a man had agreed to serve a specific time for the loan of a certain sum. The above would only have reference to those instances in which no such agreement had been made. It might increase the difficulty of borrowing money; but would cause greater honesty and industry; and could not, I think, diminish the happiness of the people.

16th. The subject of slavery is one that has so often occupied the deepest attention of wiser heads, that I shall not touch upon it,—although I am inclined to think that a small tax upon slaves, (say two rupees a head,) would not only draw some revenue from the higher classes, but if it did not, lead to the voluntary liberation of a few, it might at least check its extension.

(The master having to pay for the slave.)

A. BOGLE.

17th. The points I have more particularly adverted to are of so much importance, that if time permitted of it I should be glad that you took the opinion of your other Assistants upon them.

### (C I R C U L A R.)

*From T. C. Robertson, Esquire, Commissioner Assam Division, Gowahattee, to Captain A. Bogle, Officiating Assistant Commissioner, Lower Assam, dated 11th February, 1834.*

It appearing, that cases frequently arise in Assam involving the reciprocal rights of masters and bondsmen, which originate in deeds of mortgage executed by the latter,—the following rules are enacted for the future guidance of the Civil Courts in deciding upon such transactions.

1st. If any individual has become, or shall hereafter become, bound to serve another, in return for a certain sum of money during any clearly specified term of years,—such a transaction shall be accounted legal and be upheld accordingly.

2d. If however any individual has become, or shall become bound, to serve in like manner for an unlimited term of years under a general condition that his or

her bondage is to continue until a certain sum of money be repaid,—then on a suit being instituted by a person so situated for his or her release, the Court, before which it may be tried, shall,—after fixing the price of the plaintiff's labor and deducting therefrom what may be esteemed a fair equivalent for maintenance,—carry the balance to the credit of the plaintiff. Whenever the sum total, thus credited, shall suffice to extinguish the original debt with legal interest,—or whenever a plaintiff shall pay up whatever may be wanting in the amount thus carried to his or her credit, to effect such extinction of the said debt,—in either case the Court shall award to such plaintiff an entire discharge and liberation from his or her bondage.

3d. To prevent protracted investigation as well as to protect masters from vindictive prosecutions, it is further enacted,—that no master shall be required to account for any sum that may be carried to the credit of a plaintiff under the provisions of this rule in excess of the amount of the original debt with legal interest,—and that no suit be entertained, that may be instituted by a liberated bondsman for an amount alleged to be due to him on account of labour performed during the time of his bondage.

*From Captain F. Jenkins, Commissioner of Circuit, Assam, to  
Mr. Pierce Taylor, Deputy Register of the Sudder Dewanny  
Adawlut, Fort William, dated 22d July, 1837.*

I have the honor to acknowledge your letter No. 1864 of the 30th ultimo, and in reply beg to refer the Court to the rules which accompanied my letters of the 14th April 1836,\* and 22d August 1835, (No. 121) to Mr. Secretary Mangles, as those which I still would propose for adoption, if the Government should deem it fit to make any partial enactment.

\* To the Court.

2. I beg to repeat that I consider any regulation, which was to be attended with the immediate release of all slaves, would be attended with very distressing consequences both to the slaves and their owners: and if no remuneration was given by the state for the services of the slaves, I should consider the measure as fraught with such serious injustice, that the effects might be very serious to Government.

3. It seems to me, however, that this Government may, ere long, be compelled by the British Parliament to legislate hastily on slavery, if the Government delays much longer to originate some enactment on this most important subject: and under this apprehension, I should be glad to see the Government begin with some measures for the progressive extinction of slavery,—as this I think would prevent the evils that may otherwise be anticipated; and with this view I should recommend a regulation to the effect of my proposed rules for Assam. I have no doubt they may be safely introduced here, and they would in some measure prepare the minds of our subjects, for their adoption elsewhere, should the Government not be prepared to make the regulation general to Bengal.

*From Captain F. Jenkins, Commissioner of Circuit, Assam, to Mr. Pierce Taylor, Deputy Register of the Sudder Dewanny Adawlut, Fort William, dated 25th November, 1837.*

I have the honor to submit a copy of the rules required in your letter No. 2497 of the 18th August last, and regret the delay which has occurred in complying with the Court's requisition.

2. I have annexed to the rules a copy of the correspondence which was forwarded therewith to Government.

*Rules proposed to be enacted in the Province of Assam for the gradual mitigation of slavery and bondage.*

1. All children born after the date of the proclamation to be declared exempt from servitude for life.

2. That all such children, born after that date shall be bound to serve their parents or owners until they have attained the age of eighteen years, on the condition of being fed, clothed, and well treated.

3. The children, born to the above bond servants during their servitude, shall be emancipated at its expiration by the State, for the sum of ten rupees each, receivable by the master from the Magistrate, in compensation for the support of the child during infancy.

4. All slaves and their children to be registered, within six months before the Putwarria of villages, and Chowdries of purgunnahs. The registries so made to be returned to the Magistrate of the division. No person not so registered within six months after the date of the proclamation, shall be holden to be a slave, and the non-entry of the name of any person in such register, shall thereafter be received in any Court of Justice, as a sufficient proof of freedom.

5. The importation of any slaves, from countries not under British Rule shall be prohibited. The slaves so imported shall be released by the Magistrate and returned to their own country by the Magistrate if they wish it; and if not capable of maintaining themselves, shall be bound out by the Magistrate for a term not exceeding seven years.

6. The above prohibition, shall extend to the importation of slaves from the other Provinces of British India, including the subjected Kassiah States, Cachar, and Bengal, (N. E. Rungpore inclusive.)

7. Any person importing such slaves for sale, shall be liable to a fine, for each slave not exceeding two hundred rupees, or six months' imprisonment, at the discretion of the Magistrate.

8. The exportation of slaves, from this province, for sale at foreign countries or the other provinces of British jurisdiction as above pointed out, shall likewise be prohibited.

9. The slaves, so attempted to be exported for sale, shall be declared free, and be allowed to settle or remove to where they choose, or be bound out as above directed, if children and their parents be not known or not capable of providing for them.

10. Any person, so attempting to export slaves in breach of these rules, shall also be liable to a fine for each slave, not exceeding two hundred rupees, or six months' imprisonment.

11. Nothing, in the above regulations shall be construed, to prohibit,—male or female slaves born in slavery or domesticated for the period of five years, or if females who are pregnant or have borne children to their owners,—from going out or coming into the province, together, with their children;—provided the slaves are brought before a Magistrate, and declare that they are willing to accompany their owner, who shall then receive a passport for them, stating to the above effect.

12. The sale of children to servitude for life, shall after the proclamation of these rules, be declared illegal; but it shall be lawful to parents to sell their children in times of distress for a term of servitude not exceeding the period, in which they will attain their 21st year; after which they shall be declared free. And such sale shall be duly witnessed by three or more respectable witnesses in the presence of the village officer, who shall also authenticate the deed; and it shall be by him copied and transmitted through the Chowdry of the Purgunnah to the Magistrate for registry. On failure of executing such a deed, the sale shall be declared invalid.

13. Every person owning slaves shall register all children born of such slaves, in the manner described in Rule III, within six months of their birth, under the penalty of losing all right and title to every such child.

14. The children of female slaves, to be considered as coming under the provision of Rule II. The children of free women by slaves to be considered free.

15. In like manner the children of bondsmen and bondswomen under Rule XII to be emancipated as in Rule III.

16. The transfer of all slaves and bond servants, within the province, by sale or gift, to be registered as aforesaid. But it shall not be legal to transfer the services of the children of slaves, so as to separate them from their parents, under the age of six years: nor shall it be lawful to separate the husband from the wife. And any breach of this regulation shall be punishable,—by the forfeiture of any right to the service of the husband, wife or child, which shall be emancipated,—and by the infliction of a fine not exceeding fifty rupees or three months' imprisonment.

17. It shall not be lawful for any adult person, (that is, above eighteen,) to bind him or herself for a longer period than seven years for any sum of money: and after that term he shall be unconditionally released. But a minor above the age of twelve (12) years shall be allowed to bind him or herself for so many years in addition to seven years, as he or she may be under the age of eighteen years:—viz. if seventeen years of age for eight years, sixteen years of age for nine years, and so forth. All bond servants shall be entitled to the same allowance of food and clothing as is now customary in the province.

18. The bond by which any person pledges his or her services, shall be executed before, and authenticated by the village officer, and attested by at least three witnesses, and the village officer shall transmit a copy of the bond through his Chowdry to the Magistrate for registry.

19. It shall not be lawful to transfer any such bond servant to another, against his consent, and the transfer shall be authenticated, as before directed, with regard to the bond.

20. All bond servants after the proclamation of these rules, whose engagements have not been made for any definite period, shall obtain their release after proving they have served seven years, on payment of his or her debt,—in the liquidation of which his services shall be calculated at the value of four annas a month

over and above the cost of his food and clothing. But if the four annas so calculated shall exceed the amount of his debt, the bondsman shall have no claim against his master for the excess but only be entitled to his liberty.

21. Bond servants shall at any time obtain release by the payment of the sums for which they are bound.

22. The death of bond servants shall cancel the engagements entered into by them. The wife shall not be bound to serve for her husband, nor the husband for the wife, nor children for their parents.

23. The provincial customs, relative to the marriage of slaves and to their right to hold property, shall continue as heretofore.

24. All slaves or bond servants shall have a right to emancipate themselves, their wives or children, at a sum to be settled by a Panchaet directed by the Magistrate.

25. The ill-treatment of slaves or bond servants shall be cognizable by the Magistrate as at present.

26. Slaves or bond servants,—for misconduct shall be liable to moderate correction by their owners, masters or mistresses,—and be punishable by the Magistrates, by flogging, not exceeding thirty-five stripes, for absenting themselves from their owners, continued contumacious behaviour or other gross misconduct.

27. Any persons harbouring runaway slaves or bond servants shall be liable to a fine, not exceeding two hundred rupees, or imprisonment for six months, on conviction before a Magistrate; and such runaway slaves and bond servants shall be returned to their owners or masters and mistresses by the Magistrate, who shall inflict such punishment as laid down in Rule 23, as he thinks the case may deserve.

28. Any complaints,—from slaves of being detained improperly contrary to these Regulations,—or of owners, &c. against their slaves, &c. for absenting themselves,—shall be heard and decided on summarily by the Magistrate, leaving either party at liberty to enter a suit in a Civil Court, if the party considers itself aggrieved by the decision of the Magistrate.\*

*From Mr. J. F. Hawkins, Officiating Register Sudder Dewanny Adawlut, Calcutta, to Mr. F. J. Halliday, Officiating Secretary to Government of Bengal, in the Judicial Department, dated 22d December, 1837.*

No. 14.

I am directed by the Court to request that you will lay before the Honorable the Deputy Governor of Bengal the accompanying copy of a letter from the Commissioner of Assam, relating to the case of a Sepoy of the Assam Sebundy Corps, whom the Civil Courts have adjudged to slavery in the event of his being unable to pay ninety rupees for his release.

2. The Court are not aware of any reference such as that to which Captain Jenkins alludes in the 4th paragraph. Should a case of the kind have been before the Government, the present one may be disposed of on the principle established at the time. But if no precedent can be found, the case may be referred to the military authorities, who would probably ransom the Sepoy and realize the money paid on his account by stoppages from his pay.

Sudder Dewanny Adawlut.  
Present.  
R. H. Ratnay, } Esqrs.  
W. Braddon, }  
N. J. Hallid, }  
Judges.  
W. Money, Esquire,  
Temporary Judge.  
J. R. Hutchinson, } Esqrs.  
C. Harding, }  
Officiating Judges,  
and  
J. F. M. Reid, Esquire,  
Offg. Temp. Judge.

\* These rules as well as the correspondence referred to in Captain Jenkins' letter to the Sudder Dewani Adawlut of the 25th November, 1837, was forwarded to the Bengal Government in his letter dated 22d August, 1835. The whole has already been published on Slavery in India Papers, 1838, p. 351-357.



*From Captain Francis Jenkins, Commissioner of Circuit, Assam, to Mr. Pierce Taylor, Deputy Register of the Sudder Dewanny Adawlut, Fort William, dated 25th November, 1837, enclosed in above.*

• Girish Surmah  
UPPRAH  
Kurrikinah.

Claimed as a slave at the value of sixty-four rupees, Suit instituted 24th November, 1833, in the Court of the Sudder Munsiff of Goalparrah. Decree for plaintiff. The defendant to pay ninety rupees for his release or become a slave.

Kurrikinah appealed to Sudder Munsiff who upheld the judgment of the Munsiff, and the appellant has now applied for the execution of the decree.

A case has occurred, (particulars as per margin,\*) on which I have to request the instructions of the Sudder Dewanny.

2. The defendant, whilst the trial was pending, entered himself as a Sepoy in the Assam Sebundy Corps under another name and was lost sight of until lately,—when he was immediately claimed as a slave,

being entirely unable to pay the amount, as decreed, entitling him to his release.

3. I beg to know how I am to proceed, and whether the Sepoy must be surrendered as a slave, or whether he can be retained in his Regiment as a Sepoy on payment of any portion of his pay to his master.

4. I rather think a similar case was referred to Government or the Sudder Dewanny some time ago, with regard to Sepoys of the Arracan Local Corps; many of the Sepoys in which Regiment were to my knowledge slaves: but I am not aware of the decision that was given.

No. 15. *From the Secretary to Government of Bengal, Judicial Department, to the Register of Sudder Dewanny Adawlut, dated 13th February, 1838.*

I am directed by the Hon'ble the Deputy Governor of Bengal,—to acknowledge the receipt of your letter of the 22d December last, No. 3819, with its enclosure to your address from the Commissioner of Assam, relating to the case of a Sepoy of the Assam Sebundy Corps adjudged to slavery by the Civil Courts, in the event of his being unable to pay ninety rupees for his release,—and in reply to communicate the following observations and instructions.

• Rule regarding the sale of slaves in satisfaction of decrees of Court, received from Mr. Robertson, late Commissioner of Assam, in 1834.

Rule regarding bondsmen. Extract from a letter written to the Commissioner of Assam (Captain Jenkins) dated the 25th August 1834, para. 9.

2. From the correspondence in the margin,\*—copies of which, to the extent not forthcoming on the records of the Court, are herewith forwarded,—His Honor observes that Mr. Robertson, when Commissioner of Assam, submitted a rule, regarding the sale of slaves in satisfaction of decrees of Court, for the consideration of Government, in principle very similar to that propounded in the 2d paragraph of your letter under reply. In respect to this rule, Secretary Mr. Macsween observed, “the subject of the state of slavery will be taken into consideration hereafter. In the mean time, the Vice President in Council desires, that the Courts will abstain from selling slaves in satisfaction of decrees or for any other object.”

3. The subject was again considered, when the Court submitted to Government Drafts of the rules of practice proposed by them for the guidance of the Officers employed in Assam, in the administration of Civil and Criminal justice.

4. After some correspondence with the Court, the Government authorized them to print those rules, omitting Section 9, relating to slavery, on which subject, at the suggestion of the Court, the sentiments of the local Officers were first to be taken. To the Government letter of the 6th December, 1836 (No. 2142) to

the above purport, no reply has been received from the Court, conveying the opinions of the local authorities and their own.

5. As the matter now rests there, it is clear that the sale of slaves by the Courts for any object whatever is prohibited. But advertng to the delay,—which has occurred in bringing to an issue the consideration of the subject contemplated in Secretary Mr. Macsween's letter of 25th August, 1834 (No. 1705),—His Honor is inclined to think, that the shortest course in the case under reference will be to pay the amount value of the slave (ninety rupees) to the decree-holder,—a portion of his monthly pay being credited to the Government, until the sum disbursed shall be liquidated.

6. The Court are accordingly requested,—to provide for the disposal of the case in the above manner, if the Military authorities, to whom a reference has this day been made and of whose decision the Court will be apprized hereafter, should not object,—and in the mean time, to submit a reply with the least practicable delay to Secretary Mr. Mangles' letter of the 6th December 1836, (No. 2142) before quoted,—that no further time may be lost in laying down some definite rule on the important subject of slavery.

*From Captain F. Jenkins, Commissioner of Circuit, Assam, to Mr. J. F. M. Reid, Register Sudder Dewanny and Nizamut Adawlut, Fort William, dated 5th January, 1836.* No. 16.

I have the honor to acknowledge the receipt this day of your letter No. 2973 of 13th November 1835, and its accompaniment, from the Secretary to the Law Commissioners under date the 10th October last.

2. In reply I beg to observe that, in the absence of any defined regulations regarding the rights of masters and slaves, the Courts under me would require on disputed points the opinions of respectable inhabitants of the Province. There are, I conceive, cases in these districts, in which slaves can acquire and inherit property, but under other circumstances any property they may acquire would be considered to belong to their owners. The relative rights of masters and slaves are however, I believe in this province more dependent upon local customs than on Mahomedan or Hindoo law; for neither system of law has had more than a partial prevalence in Assam, nor been introduced in a large portion of the province, but of late years; and a considerable part of the inhabitants are neither Mahomedans nor Hindoos.

3. In regard to criminal cases I consider the Courts would take the same notice of mal-treatment of slaves by their owners, as of servants by their masters; and in certain cases of gross ill-treatment, would release the slave, under the precedent of the decision of the Nizamut Adawlut in the trial No. 67, 1805, quoted by the Law Commissioners, though I am not aware of any case in question.

4. When slaves leave their masters their recovery by their owners is very difficult,—the slaves in such instances mostly appealing to the Magistrate and affirming that they have been detained unjustly in slavery, or denying that they ever have been slaves; on which the Magistrate frequently refers the owner to a civil suit to establish his right to the person he claims as a slave.

5. This appears inequitable, as long as slavery is acknowledged by the law; and I conceive the Magistrate ought to be empowered to take evidence and decide summarily on the mere fact of previous possession. But where he had great reason

to suppose that the slave was unjustly detained, the Magistrate might be allowed to order the claim of the slave to be sued in the Civil Courts at the expense of Government; for otherwise he may be detained in perpetual servitude from the want of means to support his claim. The only other alternative seems to be to adopt the practice as described and throw the burden of commencing a civil suit on the owner. But in many instances, this procedure may be tantamount to emancipating the slave, from the inability also of the owner to prosecute his suit; for often the slave is the sole support of the owner.

6. The enactments of Regulations X. 1811 and III. of 1832, against the importation by sea or by land, is in full force in Assam.

No. 17. *From Captain F. Jenkins, Governor General's Agent, North East Frontier, to the Secretary to Government of India in the Political Department, Fort William, dated the 19th February, 1840.*

I have the honor to forward for the consideration and orders of His Excellency the Honorable the President in Council the accompanying copy of a letter from the Political Agent in Eastern Assam, No. 271, of the 10th instant.

2. Captain Vetch appears to me to be mistaken in his construction of Regulation X. of 1811, to which I suppose he refers in his 3rd paragraph. That Regulation does not, in my opinion, extend to settlers or travellers coming into the British territory with their domestic slaves, but only to persons importing slaves for sale,—as the Regulation refers expressly to “such traffic” being against the principles of our administration. If I am right in this supposition, Captain Vetch would be at liberty to deal with runaway slaves in the same manner as is done by other Magistrates.

3. If however His Excellency is of opinion that the Regulation will not bear the construction I put upon it,—it will be a subject for His Excellency's determination, whether Captain Vetch is at liberty to entertain petitions for runaway slaves, on the ground of the Regulations not having been extended to the districts beyond the Booree Dehing.

*Letter from Captain H. Vetch, Political Agent Dibrrooghur, Assam, to Captain F. Jenkins, Governor General's Agent, dated 10th February, 1840, (enclosed in the above.)*

I beg to acquaint you that it is a matter of very frequent occurrence that whole families of Singphoos remove from the Burmese to the Assam territory,—bringing with them all their household, including Assamese slaves, either of those originally taken from Assam or their descendants.

These Assamese for a time remain contently with their former masters, perhaps for years, when they either desert themselves, or are instigated to do so by persons having some object to gain with them.

2. I now solicit the favor of your instructions with respect to these, whether they are to be restored or not to their masters, who are resident in our jurisdiction, on the Singphoo Chief establishing his right as master, when these resided on the Burmese side of the boundary.

3. The circumstance of slaves coming from a foreign state would render their rights to freedom a matter of course in a Regulation district. But the question seems considerably altered on this rude frontier,—where the whole family shifts ground and thereby affords the only opportunity, the Assamese may ever have, of recrossing the frontier,—and where dependents not lands, constitute its respectability, which is destroyed by the loss of these and reduced to poverty; and it is this cause of irritation that frequently renders the Singphoos on our frontier discontented and rebellious.

Enclosed I have the honor to submit a copy of petition from Puncloo Gaum, a very respectable Singphoo, who came over from Hookum some years ago with all his household, and is now ruined by the desertion of all his followers in the manner described in the foregoing paragraphs.

I solicit the favor of your early reply, as there are a large number of such deserters with their women and children claimed by the Singphoo Chief; and who must either have a location assigned them, or be restored to the Singphoos from whom they have deserted, to save them from starving.

*Letter from Secretary to Government of India, Political Department, No. 18.*  
to Captain F. Jenkins, Governor General's Agent, North East  
Frontier, dated Fort William, 9th March, 1840.

I am directed by the Right Honorable the Governor General of India in Council to acknowledge the receipt of your letter dated the 19th ultimo, submitting with your opinion copy of one from the Political Agent in Upper Assam, soliciting instructions regarding runaway Assamese slaves.

2. In reply I am desired to inform you that before passing any orders on this reference, His Lordship in Council would wish to be furnished with further particulars regarding the class of persons to which Captain Vetch refers as to,—their numbers; the mode in which they have been reduced to slavery; the manner of their treatment by their masters; whether the children of slaves are like their parents regarded as slaves; and whether they have under any circumstances a right to claim emancipation; with any other particulars that can be learned relating to them.

*Letter in reply from Captain F. Jenkins, Governor General's Agent, No. 19.*  
to T. H. Maddock, Esq. Secretary to Government of India,  
in the Political Department, dated Fort William, 20th May, 1840.

With reference to letters as per margin,\* I have the honor to forward the further report by Captain Vetch of the 8th instant, No. 114, on,—the classes of persons referred to by him as being slaves.—and the modes in which they have been reduced to slavery,—as directed in your letter above quoted.

2d. Captain Vetch states that the persons, to whom he alluded, are Assamese by birth or descent, originally carried off from this province previous to our occupation of it, and have been obtained by their present masters, either by purchase or from having been born in their families.

3rd. Captain Vetch further mentions, he has been informed that thirty-one of the runaway slaves have voluntarily returned to their old masters since he wrote his first letter.

Political Department.

\* My letter to Mr. Prinsep, No. 35, of the 19th February, your reply of the 9th March, 1840.  
Vide *Supra*, Nos. 17 and 18.

*Letter (enclosed in above) from Captain Vetch, Political Agent, Upper Assam, to Captain F. Jenkins, Governor General's Agent, Assam, dated 8th May, 1840.*

I have the honor to acknowledge the receipt of your letter No. 237 of the 26th March, and in reply beg to say that the number runaways on the late occasion, claimed as slaves by the Singphos, amount to sixty souls, of whom twenty-one are men, twenty-eight women, and eleven children.

2d. All these are either the captives formerly taken away from Assam by the Singphos or Burmese previous to our occupation of the province, or their descendants, either by Assamese parents, on both sides, or by Assamese mothers and Singpho fathers, and they are claimed by the Chiefs, as either obtained by purchase or descent, but there are cases where the persons claimed as slaves, are so by an after capture by intercepting the runaways in attempting to get back to Assam on the Burmah Frontier: the claim to these, I consider totally inadmissible; there are others who after effecting their escape took up their abode at the first Singpho village that could feed and protect them on this side of the Frontier and became the servants of those who had received and sheltered them, the claim to the restoration of these should also, I think, be rejected. Those again who have made no attempt to regain their freedom since the occupation of Assam are those to whose cases I could solicit notice, and I should not think of recommending the restoration of any individual, until this case had undergone a separate investigation.

3rd. The Singpho slaves are generally well treated by their masters, their descendants are considered slaves, most of them can speak A-samese, but some only Singpho; among themselves the Singpho language is most used.

4th. There can be no doubt but that all these persons or their parents were in the first instance captives carried off from Assam.

5th. The Singphos are, in a great measure, dependent on them for labour, and in some villages they much out-number their masters.

6th. Since my former letter, I have received information that thirty-one of the runaways have gone back to their old masters of their free-will.

7th. I beg to enclose the copy of my former letter as required by you.

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## APPENDIX VII.

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### ARRACAN AND TENASSERIM PROVINCES.

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#### ARRACAN.

- No. 1. Letter from Captain A. Bogle, Commissioner of Arracan, to the Secretary to the Law Commission, Calcutta, dated 21st December, 1839, forwarding sundry papers relative to the abolition of slavery in Arracan, viz. Nos. 2 and 10.
- No. 2. Letter from Mr. H. Walters, Commissioner of Arracan and Chittagong, to Captain Dickinson, Superintendent of Arracan, dated 4th April, 1833.
- No. 3. Letter in reply from Captain T. Dickinson, Superintendent of Arracan, to Mr. H. Walters, dated 3d September, 1833.
- No. 4. Circular addressed by Mr. H. Walters to the Assistant Superintendents of Ramree, Aeng, Akyab, and Sandoway, dated 11th September, 1833.
- No. 5. Return to the above circular by Mr. J. L. Browne, officiating Magistrate, Akyab, dated 28th September, 1833.
- No. 6. Return to the above circular by Captain D. Williams, Senior Assistant Superintendent, Ramree, dated 1st September, 1833.
- No. 7. Return to the above circular by Captain M. G. White, Assistant Superintendent, Sandoway, dated 1st October, 1833.
- No. 8. Return to the above circular, by Lieutenant H. Mackintosh, Junior Assistant Superintendent, dated 9th October, 1833.
- No. 9. Proclamation from the Foujdaree office of the Superintendent of Arracan, dated 1st October, 1831,—issued by Captain T. Dickinson.
- No. 10. Proclamation issued from the Court of Zillah Arracan by Captain Williams, Senior Assistant Superintendent, 29th April, 1833.

#### TENASSERIM.

- No. 11. Letter from Mr. E. A. Blundell, Commissioner in the Tenasserim Provinces, to the Register to the Court of Sudder Dewanny Adawlut, Fort William, dated 11th July, 1836,—in reply to that of the 20th May last, on the subject of servitude in those Provinces.
- No. 12. Regulation regarding Debtor Servants, enclosed in above, dated 10th February, 1831.
- No. 13. Paper of Remarks by the Commissioner in regard to the above, dated 11th July, 1836.



## APPENDIX VII.

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*From Captain A. Bogle, Commissioner of Arracan, to the Secretary to the Law Commission, dated 21st December, 1839.* No. 1.

Herewith I have the honor to transmit copies of all the letters and native proceedings, to be found amongst the records of this office, relating to the abolition of slavery in Arracan.

2. I regret that so great a time has elapsed since my return to this Province without my being able to submit these papers: but under the impression that there were other documents bearing on the subject I have caused all the departments to be strictly searched in hopes of finding them. This search has occupied much time, and has, I am sorry to say, ended unsatisfactorily; for no where can we find any thing more definite than the accompanying papers.

*From Mr. H. Walters, Officiating Commissioner of Akyab, to Captain T. Dickinson, Superintendent of Arracan, dated 4th April, 1833.* No. 2.

With reference to the state of slavery in this Province, and the Regulations and humane intentions of the Government on the subject, I would request your sentiments as to the best mode of putting a stop to the practice in this Province.

2. To prohibit the sale and purchase of slaves, imported from other districts and countries, the law gives you ample discretion; and also to punish severely all parties guilty of such crimes. But with a view to check domestic slavery, it might be sufficient at present perhaps to interdict the recovery of the persons of slaves, or any money, or consideration claimed on account of the sale, purchase, transfer, or mortgage of slaves in our Civil Courts. A circular to the Assistants ordering Plaintiffs in all such cases invariably to be nonsuited would suffice, without issuing any proclamation on the subject.

3. On the other hand, any persons, petitioning the Criminal Court for release from restraint imposed upon them on the pretence of their being slaves, should have their remedy, by an order being passed to the effect, that they are at liberty to go where they please, and that any persons illegally restraining them, will render themselves liable to punishment,—a copy of such order being given to the petitioner to produce to whomsoever it may concern.

4. Should you see no objection to above suggestions, you are desired to give them effect.



**No. 3. *From Captain Dickinson, Superintendent of Arracan, to Officiating Commissioner H. Walters, dated 3rd September, 1833.***

With reference to the subject of your letter, No. 248, of the 4th April last, it does not occur to me,—how we can fairly, and justly, and without creating a considerable sensation among the more influential classes, interdict the recovery of any money or consideration claimed on account of the purchase, transfer, or mortgage of slaves in our Civil Courts; though I am fully agreed with you in the measure of interdicting the recovery of the persons of slaves, and the humanity of granting release from restraint on petition in our Criminal Courts. This will,—go far towards abolishing the practise,—gradually introduce that order of things which we desire,—and obviate the evils, to which too sudden innovations on ancient customs and practices are liable.

All transactions of the above nature subsequent to the conquest of the province and by our Ramoo Mughls after the promulgation of Regulation X. of 1811 are of course null and void. I shall be happy to have your further sentiments on this subject.

**No. 4. *Circular addressed by Mr. H. Walters, Officiating Commissioner of Arracan, dated 11th September, 1833,—to Captain Browne, Captain Williams, Captain White, and Lieutenant Mackintosh, Assistant Superintendents of Ramree, Aeng, Akyab and Sandoway.***

You will herewith receive copy of a letter from Captain Dickinson, No. 109, dated 3d September; and you are requested to report the actual state of slavery in the part of the Province under your authority, and the means you would recommend for putting a stop to the practice.

2. You are also requested to state your sentiments on the point noted by Captain Dickinson as to the degree of “sensation” which would probably be created by enforcing the interdiction referred to by him.

3. A copy of my letter on the subject, No. 248, dated 4th April, is annexed for your information.

**No. 5. *Return to the above Circular by Captain J. L. Browne, Officiating Magistrate, Akyab, dated 28th September, 1833.***

I have the honor to acknowledge your letter, No. 2, in the Judicial Department, with annexed copies of letters, No. 248, to the address of Captain Dickinson and his reply thereto, regarding slavery, and recommending measures for its total extinction.

There is hardly an individual, let his condition be what it may, that does not possess one or more of the following (3) classes of slaves.

1st. Phobyng, perpetual and hereditary; 2d Appang, manumission to be obtained on paying the purchase money which is on an average forty rupees; 3d, Mónhó-tolling, a woman sells herself for, say twenty rupees, she is obliged to serve the person to whom she mancipates herself for twenty years; she also receives at the expiration of each year one rupee, so that at the end of her servitude she will have been paid forty.

Among the Kyengs, slaves are allowed half the profits of their own labor.

The Mughas, generally speaking, treat their slaves well,—at least as well as their wives; which inclines me to think that few would avail themselves of their liberty; for it is only when a woman is cruelly beaten and ill treated then she flies to the Court for protection and release from thralldom. The defendant's loss in that case would not be unmerited if nonsuited. But so few are these cases, that contentment is manifest.

The plan, proposed by you in your letter No. 248 to Captain Dickinson, I highly approve of,—as most effectual; and gladly will I adopt it. Indeed, I have acted hitherto on the same principle: nor do I dread any thing from its general adoption. But from Captain Dickinson's long residence in this province and from his thorough knowledge of the Mugh character, I am induced to offer the following—that each slave-owner be compelled to give one or two rupees per month to each slave; which would enable her to free herself, if frugal, in two or three years. A proclamation to that effect was once issued by Mr. Paton, so I understand.

The slave-owner failing to pay the stipulated sum, (for some fixed period, the same elapsing,)—the slave on petitioning to be manumitted. Any dispute concerning the price of a slave of the first class could be settled by arbitration.

*Return to the above Circular by Captain D. Williams, Senior Assistant Superintendent, Ramree, dated 1st September, 1833.*

No. 6.

I have the honor to acknowledge the receipt of your circular, No. 2, and its accompanying correspondence.

On my first assuming charge of Ramree, I liberated three slave girls, (Munny-poories) the property of the most respectable man in this district, the Soogree of this town. I must, however, in justice to this man, mention his cheerfully submitting to the order and presenting the girls with presents. I have since given general circulation to the prohibition of selling and purchasing slaves, or introducing them from other countries, and have emancipated several others; and in one instance the owner sued the emancipated slave for her price: a decree was given in his favor, and consequent incarceration of the defendant. But she was soon released again, no subsistence being provided. A short time ago I nonsuited a plaintiff, who had sued a woman for the price of her infant. The plaintiff was a Serang of one of the Military boats; and I would have punished him to the extent sanctioned by the Regulations,—had it not appeared that he felt justified by his intention of bringing up the child as a follower of Islamism, and thereby doing a meritorious act. However that appeared doubtful, as he kept a Mug woman, whose slave the child would have become on her separation from the Serang.

There is a practise, amongst the Mugs of pledging their wives or children for the payment of a debt, which they maintain is not slavery. I have however most peremptorily prohibited it, allowing only the debtor to pledge his own body.

It is the policy of the owners to keep their slaves as poor as possible to prevent any chance of their manumitting themselves. I do not, therefore, see from whence the money or consideration for the purchase, transfer, or mortgage of a slave is to come. However, to remove all cause for complaint by owners of slaves manumitted, I would permit their suing for the purchase or transfer money in the Civil Court, and the Court might, in all aggravated cases, nonsuit.

No 7. *Return to the above Circular by Captain M. G. White, Assistant Superintendent, Sandoway, dated 1st October, 1833.*

I have the honor to acknowledge the receipt of your letter, No. 2, of 11th ultimo, with copies of your letter, No. 248, dated 4th April last, to address of the Superintendent of Arracan, with that Officer's reply thereto, No. 109, of 3d ultimo; and I have to acquaint you that there is little or no slavery in this district, most of the slaves having been released on petition, and the few that remain, continue in their state voluntarily,—they being aware, that they may be released on application: and I do not fail to make the people acquainted with the humane intentions of the Government on the subject, by frequently questioning the Soagrees and Roagonga, and directing them, as also the police, to promulgate the same.

2. I am of opinion that slavery or domestic slavery throughout this province might be entirely checked by the enforcement of the suggestions contained in the 2d and 3d paras. of your letter to the Superintendent of Arracan; and I should not apprehend therefrom any ill consequences as imagined by Captain Dickinson.

3. I would however respectfully suggest that a proclamation from yourself be issued, declaring,—that the Magistrates are authorized to grant the release from slavery of any person whatever on petition on unstamped paper, and that any persons restraining another from preferring such plaint will render themselves liable to fine or imprisonment,—that the present owners of slaves are at liberty within six months of date of proclamation to file a civil suit for the bona fide purchase money of a slave, against the actual receiver of the purchase money, if in existence,—but that he be prohibited from prosecuting the heirs or the slave, in event of the actual receiver of the purchase moneys\* demise.

\* *Sic orig.*

† *v. Sup. No. 2.*

4. I do not myself see, that it would be unfair or unjust to interdict altogether the recovery of any purchase money by owners of slaves, as suggested in latter part of your 2d para. of your letter No. 248;†—as such transaction must necessarily have taken place before the date of the treaty of Yandaboo, viz. 24th of February 1826, nearly eight years ago, or during this period, the owner of the slave must have recovered the full value of his purchase money, by the labor of the slave: and such purchase money viewed even as a loan of cash could not now be recovered in a Civil Court in this province, as, by Rule 3 for the administration of civil justice in the province of Arracan,—framed by the Hon'ble Mr. Blunt, when Special Commissioner, and sanctioned by Government, and duly promulgated,—no civil suit is cognizable in any Court in the province in which the cause of action originated three years antecedent to the institution of the suit: and although a limitation of 12 years antecedent to the date of treaty of Yandaboo, was allowed for cause of action, all such suits ought to have been filed within three years after promulgation of Mr. Blunt's code. Consequently at the present date, I do not see why the purchasers of slaves should be allowed to recover their purchase money in a civil suit,—when by Mr. Blunt's Rule above quoted no civil suit could now be cognizable in our Courts, however honest or honorable the transaction, should the cause of action have originated upwards of three years from the present date. At any rate it would be legal to nonsuit the plaintiff: therefore there would be no illegality in nonsuiting a slave-dealer, whose cause of action must have originated upwards of eight years from the present date.

*Return to the above Circular by Lieutenant H. Mackintosh, Junior* No. 8.  
*Assistant Superintendent, Sandoway, dated 9th October, 1833.*

I have the honor to acknowledge the receipt of your Circular letter, No. 2, in the Judicial Department, under date the 13th ultimo, on "slavery."

2. That the system of holding the person in bondage is one of common practice in the Province would seem not to admit of doubt. I do not however learn that it is of more general occurrence in this than in the adjacent districts. And although the term and practice of slavery is daily becoming more and more offensive to all civilized nations,—its operation, as we find it established among this people, is so mild, that apart from those general considerations, which the contemplation of the subject presents to the mind of the philanthropist, there appears to be nothing in the system to awaken those intense feelings of sympathy, which the horrors of African slavery must ever give rise to. Yet it must be admitted that its suppression even here becomes desirable.

3. I will endeavour briefly to sketch its state, as in existence here, and

*First—of Children.* It is found that the general cause of their being led into captivity, is where the parents, either from pecuniary losses or from advancing old age incapacitating them from labor, place their child in bondage for a sum which is to relieve them in the one case from the unfortunate demands of a creditor, or as may be actual starvation arising from a reduction to that state, possibly from unsuccessful efforts in trade. In the other case, it would seem to be adopted distinctly with a view to secure a retirement *free from labor* ! that acme of *Mugh* desire which the parents thus enjoy at the expense of the freedom of their child !

*Second—of Adults.* In all these cases the parties have pledged their persons on failure of restitution of a sum borrowed.

*Third.* Of female children sold and bought to be maintained in a state of concubinage.

*Fourth—of Wives.* A husband embarking in an adventure requiring a sum which he happens not to possess, he pledges his wife as a bondmaid to the individual from whom he borrows.

4. The above form the chief cases occurring; and the restraint imposed upon a bondsman or bondmaid, is greatly alleviated by rules apparently well understood by the people themselves, and which if only acted upon must reduce their system of slavery to that of ordinary servitude. For example, if a child is ill-used or dissatisfied in the family, in which the parents have placed him or her, the parents endeavour to find out another family, who by an advance of money enable them to remove the child under the care of these new contractors for its labor; and\* that with adults they look out for another place if unhappy on their first selection, and if they can find another willing to advance the sum they are held in bondage; for they immediately with the money transfer themselves from the one to the other. Old parents making over young children for an advance, and dying,—a child may work out its own freedom, and if a female child, marriage would seem not impossible, if the future husband has no objections to buy his wife. From twenty or thirty rupees, up to eighty rupees, is advanced here for one child. These slaves, if they may so be termed, generally perform the work of, and are fed and clothed by, the family they are in. If misfortune befalls the family and they are unable any longer

*Sic Orig.*

to keep the child, they demand from the parents the sum advanced, who borrow it from another, and the child is removed as the security.

5. I doubt not that I shall carry you along with me in opinion, that it is difficult to determine, where we find slavery so gentle in its operation, what steps would in any way render the system of holding the person in bondage less nugatory than it really is: for it does not deserve the appellation of slavery. And as this people are yet an immeasurable way off from that point in the scale of civilization where any unnatural or unlawful restraint imposed upon the active energies of the individual is held to be a loss to the commonalty—can we advocate manumission on the score that they would employ themselves better in laboring of their own free will, and for self advantage, than as they are now obliged in a measure to do for another? In the face of knowing the Mughs in general, to be the very laziest of the lazy, I am inclined to think, that was it possible to put a stop to the system as in vogue here at present,—the people would be little bettered in condition by the humane intent of any legislative act on the subject.

6. The evil here is purely a moral one. If the parent's love for his child is not strong enough to prevent his delivering it over in charge to another instead of cherishing and protecting it himself, and if that child when arrived at a certain age does not see or feel any degradation in his position in society, or more properly among the community,—I fear, no enactment, that we could enforce, would bring them within the influence of that bright ray, which emanates from reason's light and through the cheering influence of which, we are enabled, not only to distinguish, but to appreciate, the difference betwixt freedom and restraint. So long as the indolence and want of feeling on the part of the parent remain manifest, as they are found to be, the one in excess, the other in diminution,—so long I apprehend will this system continue.

7. The foregoing remarks have reference only to the system which exists around me here. It is far otherwise in the Akyab District. There slavery does really exist, for there they are bought and sold (I am told) and the children born to slavery: in which case it will last from generation to generation, if the law is not made to put a stop to it.

8. With advertence to the degree of sensation, which any decisive declaration of abrogation might create, I must bend of course to the lengthened local experience which no doubt suggested the remark to the Superintendent. Yet at the same time I beg permission to say, that I have in vain looked around me during my stay hitherto in Arracan for that influential class alluded to. There are individuals no doubt who exercise a certain influence over their fellows, but, as to the existence of a distinct influential body having a place in the community, I think it will generally be admitted that it is a desideratum in this province.

9. In conclusion, I should suggest,—that the Court here should be open to grant unconditional liberty to all, who should petition for it, and who may at the time be under any unnatural or unlawful restraint,—and further, that all transactions connected with the system as we find it established in this part of the province, should be so far discountenanced, as to render sums given or received not recoverable by a civil suit.

10. A father borrows money to game with, (not an uncommon case). His child becomes the bondsman of another. Is it just or proper that that child should be compelled to labor for a series of years on account of the worthlessness of the parent?

*Proclamation from the Foujdari Office of the Superintendent of Arracan, dated 1st October, 1831, issued by Captain T. Dickinson.* No. 9.

The inhabitants of this country advance money to men and women and retain them as slaves. For the sake of getting money these people then may be slaves to all. Seeking subsistence\* they do not give their lives. This practice is the bane of the country; nor is it usual with all the Mughls. It is requisite that all should promptly release persons, men and females,—refunding the price of their bodies. If any person, contrary to this proclamation, should not receive price tendered, and retain another as a slave, on complaint and proof, the person so retained, together with price, will be discharged.

N. B. The original of the above is written in such an unintelligible jargon, probably by a Mugh attempting to use a foreign dialect (Hindustani) that a translation is not possible. A paraphrase can only be given. J. C. C. S., Secretary.

*Proclamation issued from the Court of Zillah Arracan by Captain D. Williams, Senior Assistant Superintendent, 29th April, 1832.* No. 10.

From the date of the accession of the English Government,—under Regulation X. of 1811, are at once absolutely released and free, all slaves imported for purposes of traffic into this province whether from a foreign country, from the English country and the territories of Rajas and others. Therefore, this proclamation is published for general information. The date of the conquest of this province, that is, of the Treaty of Yandaboo, is 24th February, 1826. Since that date, all slaves purchased from a foreign country (and brought into this) or sold from that province into any other place in the Company's Territory shall have their liberty. If hereafter any person shall act contrary to this notice, shall, from a foreign state, import into this province and sell any human being, or shall export into and sell a human being in the English Territory,—on apprehension and proof, the offender will be imprisoned six months and fined two hundred rupees; and if he do not pay the fine, will be imprisoned a further period of six months.

*Letter from Mr. E. A. Blundell, Commissioner in the Tenasserim Provinces, to the Register of the Court of Sudder Dewanny Adawlut, Fort William, dated 11th July, 1836.* No. 11.

1. I have the honor to acknowledge the receipt of your letter of the 20th May last, conveying the Court's desire to be furnished with information on the subject of the modified system of slavery existing in this country.

\* Not clear.

2. Though the terms "slavery and slave" be applied to certain classes of individuals in these provinces,—yet in reality no such state as that of slavery exists here. The regulation on the subject that was issued very shortly after our obtaining possession of the country (copy of which is herewith forwarded) so far modified the state of debtor-slavery, as it existed under the Burmese rule, as to reduce it to mere domestic service paid for in advance.

3. The description of debtor-slavery under Burmese rule will be found in the accompanying paper.

4. Even the modified system of debtor-service introduced by us is now fast disappearing; and though I am in possession of the sanction of Government for doing away with it altogether, yet I think it preferable to allow it to die a natural death,—as the people are fast evincing a sense of its inapplicability to their improved state under our Government.

No. 12. *Debtor-Servant's Regulation, enclosed in above signed by Mr. A. D. Maingy, Commissioner in the Tenasserim Provinces, and dated, Moulmein, 10th February, 1831.*

1. Notice is hereby given that from and after this date no contract or agreement,—binding persons to serve in the capacity of debtor-servant in consideration of a sum advanced for their labor and services,—shall be valid,—unless such contracts or agreements shall be acknowledged by the contracting parties before the Commissioner, his Deputy, or Assistants. These contracts shall be regularly drawn out and entered in a register to be kept at the Youm; and the debtor-servant furnished with a copy of his contract, signed by the Commissioner, his Deputy, or Assistants.

2. The contracts so registered, shall specify as far as possible the nature and degree of the service to be performed by the debtor, and always fix a definite term of servitude with the sum,—which shall tend towards the monthly liquidation of the money advanced to him or her, and which sum shall on no occasion be less than two pice per day. No youth of either sex, under the age of sixteen years, shall be deemed competent to enter into a contract for future services.

3. No parent or parents shall be allowed to mortgage the labour or services of his, or her, or their children; and no children of debtor-servants shall be liable for the debts contracted by his, her, or their parents, for the mortgage of his, her, or their labor or services. The children of all debtor-servants are free; but if the father and mother be unable to support their offspring, the master or mistress shall be entitled to the gratuitous services of the children so supported, untill they attain the age of sixteen years, as a recompense for the expence incurred in their maintenance. But no master or mistress shall transfer or mortgage the labor or services of such children.

4. In case of the death of the master or mistress, the debtor,—shall have the option of repaying to the estate such sum as the Commissioner, his Deputy, or Assistants may conceive equitable for unexpired services,—or serve out the remaining period with the legal representative.

5. No debtor-servant shall, on any occasion, be transferred to another person by his, or her master, or mistress,—unless the terms of his or her contract included such provisions.

6. In the case of females mortgaging their labour or services, their debt shall be cancelled by the Commissioner, his Deputy, or Assistants, in every instance of its being proved,—that the master has co-habited with her,—or that her master or mistress has been in any manner accessory to her prostitution.

7. Whenever it shall be proved, to the satisfaction of the Commissioner, his Deputy, or Assistants, that any debtor-servant, has not been provided with proper food, clothing, or habitation by the master or mistress,—or has been otherwise treated with inhumanity or cruelty by him or her—the contract or debt of such servant shall be cancelled, in addition to such other punishment, as the Commissioner, his Deputy, or Assistants may deem necessary on the master or mistress.

8. If a debtor-servant fails to serve with fidelity or has been neglectful from improper or vicious habits, the Commissioner, his Deputy, or Assistants, on such being proved, shall punish the party in the same manner as in the case of a common servant so offending.

9. No contract or agreement, binding persons to serve in the capacity of a debtor-servant in consideration of a sum of money advanced for their labor or services, shall be valid,—unless the amount so advanced be paid in the presence of a Magistrate to the persons mortgaging their services.

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*Paper of Remarks by Mr. E. A. Blundell, the Commissioner, in* No. 13.  
*regard to the above, dated Moulmein, 11th July, 1836.*

Though the system of slavery under the Burmese rule be nominally mere bond service; yet,—owing, to the but little limited authority of the master, to the impoverished state of the country, and to the small chance of a debtor-slave obtaining justice against his creditors in the Courts,—it may be looked upon as real “slavery.” The chief alleviation of such a state is derived from the slave having it in his power to transfer his services to another creditor, should he find one willing to pay the amount of his debt.

The nature of the slave-bond is very diversified;—for general service;—for house service;—agricultural service, &c. Many are mere engagements to pay some enormous rate of interest by daily or monthly payments; and those of the former description are often changed into the latter, the slave engaging, on being permitted to follow his own business to pay so much a day out of his earnings. All these bonds, are mere acknowledgments of certain debts, on repayment of which, the slave again becomes free. These debts,—augmented by the expenses incurred by the master on account of the slave for clothes and other items (not including food however),—descend to the children whether born in slavery or not,—and must be discharged by them either by payment or the substitution of one of them for the deceased parent. Children born in slavery become the slaves of the creditor and are not



released by the payment of the original debt of the parents. If grown up, the amount to be paid for such born slaves is thirty Ticals (Rupees nearly) for a male and twenty-five for a female.

In satisfaction of a debt,—parents can sell their children,—husbands their wives,—heads of families their dependent relatives. The amount, for which they are sold, is considered *their* debt for which they alone are answerable, and until it be paid to the creditor, they and their posterity are his bond-servants. On becoming a slave for a certain amount, it is a usual custom to provide security; and such security is answerable, not only in case of the slave absconding, but even on his death. These securities are generally relations of the slave.

In Burman law the price of a male is fixed at thirty Ticals and that of a female twenty-five. These sums are constantly decreed in their Courts, in numerous cases. For such sums the children born in slavery can redeem themselves. A master having connection with his female slave against her consent forfeits twenty-five Ticals from the amount of her debt. These sums are also made use of in apportioning the children of slaves, where the parents belong to different creditors.

In stating however what the law may be in the several cases relating to slaves, or indeed to any other subject, we are too much in the habit of attaching our own ideas of legal rights of persons. Slaves may be looked upon in Burmah as the property of their masters as much as the cattle in their fields: and though generally their condition is far from being one of hardship or looked upon as a disgrace, yet, once slaves, they have but a slender chance of ever manumitting themselves.

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## A P P E N D I X VIII.

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### HINDU AND MAHUMMADAN LAWS OF SLAVERY.

- No. 1. Hindu Law of Slavery. Paper by the Secretary.
- No. 2. Addenda to the above in which three questions are investigated by the Secretary by desire of the Indian Law Commission, viz. I. Parental power to sell a child; II. Power of the master over the person of his female slave; and III. Power of the master to correct his hired servant.
- No. 3. Opinion of VYDIA NA'TH MISR, Pundit of the *Suddur Dewanni Adawlut*, on the power of parents to sell their children into slavery.
- No. 4. Opinion of VYDIA NA'TH MISR, Pundit of the *Suddur Dewanni Adawlut*, as to the power of the master to correct his adult free servant for misconduct.
- No. 5. Muslim Law of slavery. Paper by the Secretary.
- No. 6. Opinion of GHULAM SUBHAN, Kāzi-ul-kuzāt of the *Suddur Dewanni Adawlut*, as to the power of the master to correct his adult free servant for misconduct.



## APPENDIX VIII.

In the technical language of Hindu law the *Susrūshaka*, or person owing service, (*Susrūshā*) is five-fold. The pupil, (*Sishya*) the apprentice, (*Antevāsi*) the hireling, (*Bhritāka*) the overseer, (*Adhikarmakrit*) and the slave (*Dāsa*.) Breach of obedience due is one of the eighteen titles of law. The four first are denominated servants, (*Karmakāra*) and are liable to pure work.

No. 1.  
NA'RADA. Vide Digest B.  
III. C. I. V. 3, p. 205, vol. 2. \*

NA'RADA. D. B. III. C. I.  
V. 26, p. 222, volume 2.

2. There are fifteen descriptions of slaves enumerated by NA'RADA; who are said to be liable to impure works. The house-born<sup>1</sup> (*Grihajāta*;) one born in the house of a female slave; the bought<sup>2</sup> (*Kṛita*;) the obtained<sup>3</sup> (*Labdha*;) the inherited<sup>4</sup> (*Dayādūpagata*;) the self sold<sup>5</sup>; the captive in war<sup>6</sup>; the apostate<sup>7</sup> from religious mendicity or asceticism; the maintained in a famine (*Anakāla Bhritta*<sup>8</sup>;) the pledged<sup>9</sup> by his owner; the slave for a debt<sup>10</sup>, who submits to slavery for discharge from debt; the won in a stake (*Pañjita*<sup>11</sup>),—one who is overcome in a contest, who had agreed to submit to slavery in that event; the self-offered with the words "I am thine"<sup>12</sup>; the constituted (*Kṛita*<sup>13</sup>) for a stipulated time; the slave for his food (*Bhakta Dās*<sup>14</sup>;) the slave for his bride<sup>15</sup> (*Badāvahrita*.)

Idem " V. 29.  
p. 224, vol. 2.

3. The *Labdha* or obtained slave is described in the *Mitāksharā* as obtained by acceptance and the like. Mr. COLEBROOKE has rendered the term "received by donation"; the author of the Digest in his comment says "by acceptance of donation and the like." If not included in this denomination, the female slave, acquired by her marriage to a man's slave, is a 16th class. According to a text of KA'TYAYANA and its comment in the *Vivāda Chintāmanī*, she may be either a free woman or slave of another, if he has assented to her marriage. Another instance which may perhaps be included in the *Labdha*, is below noticed. (p. 9.)

Digest B. III. C. I. V. 55,  
p. 252, vol. 2.

4. The free man in the last eight instances must consent to slavery. The maintained in a famine, is described by the author of the *Mitāksharā*, as "preserved from death for slavery." The apostate becomes the king's slave, if he fail in performing atonement. The author of the Digest says that the captive in war must also assent to slavery to save his life; but in the *Mitāksharā* this assent is not implied.

5. MENU enumerates seven slaves. The captive; the slave for his food; the bought; the house born; the given; the paternal; and the penal (*Dandā Dāsā*) explained to be one consenting to slavery to discharge a fine and the like. The author of the *Mitāksharā* says that this enumeration is not exclusive of other descriptions of slaves; which opinion the author of the Digest adopts.

MENU. C. VIII. V. 415,  
cited in Digest B. III. C. I.  
V. 33, p. 228, volume 2.

6. Any person bound to obedience is only bound to render service suitable to his class; according to which also is he to be treated. In the Digest B. III. Cap. 1. S. V. 7, the verse of NA'RADA which implies this position is not rendered according to the comment, and the more obvious sense of the text. But it is said generally, that all slaves are to perform the lowest offices.

Digest. B. III. C. 1 V. 56,  
57, 58.

7. By the old law in the direct order of the classes, a Brahman might have a wife of each of the three classes inferior to himself. A *Kshatriya*, one of both of his two inferior classes, and a *Vaisya*, a Sudra wife. On the same principle servitude is said to be in the direct order of the classes. The superior cannot be the slave of the inferior, but an equal may be of an equal.

Digest. B. III. C. 1.  
V. 30.  
Idem V. 50.

8. But the Brahman is not liable to slavery. The apostate is stated generally to be the slave of the king in the *Mitāksharā*; which does not cite the text of KA'TYAYA'NA in which it is said the apostate Brahman is to be banished. The rule of slavery in the direct order of the classes does not apply to the apostate slave. According to the author of the Digest a *Kshatriya* or *Vaisya* apostate may, if he assents, serve an inferior Hindu slave.

Book III. C. 1. Comment  
on V. 27.

9. In treatises of adoption an extract imputed to the *Kālikā Purāna* (though of doubtful authenticity) is prominently cited. See translation of the *Dattaka Mīmāṃsā* S. IV. § 22; and *Mitāksharā* on Inheritance Cap. XI. S. 1, § 13. It has a passage which declares that adopted sons duly initiated may be considered as sons "else they are termed slaves." The author of the Digest commenting on the words "bought" and "received" in NA'RADA's description of slaves, observes that they may mean also boys purchased or received for adoption, but who have become slaves through some failure in the form, and he adds, that they become slaves independent of consent; and he is not shaken in his position, though it should be urged that thus a Brahman might become a slave.

10. Sir T. STRANGE in his Appendix to the 5th Chapter of his Hindu Law quotes a letter of Mr. COLEBROOKE on Hindu slavery generally, in which, he discusses the peculiar point just referred to. Mr. COLEBROOKE quotes the elaborate exposition of the author of the *Dattaka Mīmāṃsā* (S. IV. § 40, 41, 46,) which is in effect, that the informally adopted falls to the condition of slave, if the adoption fail from three causes,—1, excess of age, 2, rights omitted, 3, impossible from their prior performance. Mr. COLEBROOKE does not treat the construction of the author of the Digest with much respect, and adds that, but for the commentary of the author of the *Dattaka Mīmāṃsā*, he should consider the words in the passage of the *Kālikā Purāna* as figurative, and merely intended to declare the adoption void.

11. The author of the *Mitāksharā*, in his comment of the *Labdha*, or obtained slave as already noticed, says "by acceptance (*Parigraha*) and the like"—*Parigraha* means also adoption: but if he contemplated the case of the informally adopted he would probably have been more explicit.

12. I think the first impression of Mr. COLEBROOKE, that the passage in the extract imputed to the *Kālikā Purāna* is not to be construed literally, is correct; nor does the comment of NANDA Pundit appear to me opposed to this. He merely deduces from the text three predicaments, in which in an informal adoption the adopted are said "to be slaves," that is, do not acquire the filial relation.

Digest. Idem V. 11.  
(Half verse omitted.)

13. The power of moderate chastisement of slaves seems a necessary condition of the relation of master and slave. MENU (Cap. VIII. V. 229 and 300) declares that a wife, a son, a slave, (*Dāsa*) a pupil, and a younger brother, may be chastised with a rope, or a slip of bambu, (*Venuḍāla*); they are to be beaten on the

Sir WILLIAM JONES has used servant in his translation of this text; so also

back part of their bodies. The person chastising contrary to this rule incurs the penalty of theft. The commentator KULLUKA BHATTA says the chastisement is "for the sake of instruction" and that the *Venudāla* is a light *Sulaka* slip or lath. A text of KA'TYĀYA'NA cited in the *Ratnākara* is this—"Corporal punishment (*tādana*) and binding, so also vexation (*vidambana*.) These are in the penalties of a slave. Pecuniary fine is not ordained." The author of the *Ratnākara* explains that by corporal punishment is meant flagellation with a whip and the like; by vexation, tonsure, exposure on an ass, and so forth.

elsewhere, v. 415 in parti-  
cular. But Mr. COTANROCK  
here substitutes slave. Vide  
Dig. B. III. C. I. V. 33.

14. NA'RADA declares that, the pupil deserting his master may be corporally punished and confined; and GOTAMA says that for ignorance and incapacity he may be corrected "with a small rope or cane." The *Ratnākara* commenting on another text of NA'RADA, enjoining the duty of the pupil, says, that he is thus declared to be a servant.

Digest V. 19.

Idem V. 12.

15. By another text of law (*Smṛiti*) the mutual litigation between husband and wife, teacher and pupil, father and son, master and servant, is not legal. The author of the Digest remarks, that this does not exclude special cases, and that the text implies that the teacher, and the rest, have the power of correction, and adds that if the pupil or the son violate his duty, and the teacher or father be weak and unable to correct him, it is consistent with common sense that "he should then apply to the King."

Idem V. 10.

16. NA'RADA in his text has the words "*Badha* and *Bandha*" (binding.) The former might mean death; and the author of the *Mitāksharā* obviates that sense by declaring that corporal punishment (*tādana*) is meant "on account of the slightness of the fault." It is not important whether the mode of punishment indicated by "a rope" is tying up or stripes. It appears clear that the Hindu Law recognizes the power of the master to inflict moderate chastisement on his slave. He is, however, liable to punishment for abuse of that power.

V. 19.

17. Can a slave own or earn property independent of his master? There are two nearly identical passages of NA'RADA and MENU (Chap. VII. 416) on this subject, which declare that a wife, a slave (*dāsa*) and a son can have no exclusive property, and that their gains belong to their owner. A passage of KA'TYĀYA'NA declares the dominion of the master over the slave's goods. "But the master has no right to the goods acquired by his favor or sale." According to one reading "by public sale." Another reading rejects the negative. The passage quoted is as it occurs, in the printed copy of the *Chinlāman'i*; the author of which says whatever property is obtained by a slave by the favor of his master and by self-sale is the slave's property. The master is not entitled to it.

Digest B. III. C. I. V.  
51 and 52.

Idem V. 54.

18. KALLUKA BHATTA commenting on the above text of MENU, says that, it is to declare the dependence of the wife and the rest, and he illustrates the case of *Stridhan* as an instance of property in the wife. The author of the Digest in his comment on these passages seems of opinion that the slave may have exclusive property; and in a prior passage he combats the objection,—that a slave maintained having no property cannot repay his food,—by asserting that he may through affection possess property.

19. As a general position, it appears, however to me correct, to say that the goods and earnings of a slave belong to his master,—the exceptions being, the case in which the master has assured the slave's ownership, the proceeds of a self-sale, or any thing analogous.

Digest B. III. C. I. V.  
43.

Digest. B. III. C. 1. V. 42.

20. By the preservation of his master's life from imminent danger, a slave is not only emancipated but entitled to inherit as a son; and if a female slave bear her master a son, according to a text of KA'TYAYA'NA, both are entitled to liberty. But according to the explanation of the *Prakāsa Parijāta* and other *Maithila* books, as noticed in the *Chintāman'i* and Digest, this must be only considered in the case where the master has no legitimate or adopted son.

Idem V. 35.

21. Except by the preservation of his master's life and his will (and in the case of the female slave, by bearing him a son) there is no emancipation of the first five slaves enumerated in par. 2. This is distinctly stated by the author of the *Mitāksharā* who does not even allude to the text of GOTAMA favorable to the female slaves in the case premised.

Idem V. 44.

22. According to the comment of VIJNANESWARA on a very obscure text of YA'JNYAWALKYA (which he declares applicable to the apprentice as well as slave,)—the slave maintained in a famine and the slave for his food are emancipated by relinquishing their support and replacing what they have consumed from the commencement of their slavery. But the words of this text do not suggest this latter position.

Idem V. 43.

23. NA'RADA says the first is released by giving a pair of oxen; for, what he consumed in a famine is not discharged by labor; and he adds that the second is released immediately on relinquishing his food. The author of the *Ratnākara* holds that the slave fed in a famine obtains his liberty by relinquishment of food and gift of a pair of oxen. In this, the more obvious sense of the text, the author of the Digest concurs, noticing, however, that the author of the *Vivāda Chintāman'i* holds that he must give the oxen in addition to what he has consumed.

24. According to the *Chintāman'i* and Digest, the slave for his food is released by relinquishing the same: and this appears the most reasonable doctrine. It does not seem unreasonable, that he whose life was saved in famine should make some return, besides his labor: but that he should give both a pair of oxen and the value of his support is hardly just and probably not intended.

Idem V. 46.

25. The debtor-slave is released by liquidation of his debt, with interest according to NA'RADA. The comment in the *Mitāksharā* on the obscure text of YA'JNYAWALKYA already noticed, says that the debtor-slave is discharged on repaying with interest his present creditor what he paid to redeem him from a former creditor. This seems the mention of a special instance by way of illustration.

Idem V. 45.

26. The pledged-slave reverts, of course, to his master who pledged him, if he redeem him from the mortgagee. This is declared by NA'RADA. But an involved and obscure comment on the above obscure text of YA'JNYAWALKYA in the *Mitāksharā* bears this construction, that the pledged-slave is released on his paying the amount for which his master pledged him with interest. It, however, hardly can have been meant that an owner pledging his slave at an under valuation should give the slave the right of redemption at that under price.

Cited in Dig. B. III. Cap.  
1, Comment on V. 46.

27. The slave for his bride (literally attracted by a female slave) is emancipated by separation "because (says the author of the *Mitāksharā*) it is prohibited to cohabit with a slave."

Idem V. 46.

Idem 47.

28. The slave for a term is, of course, emancipated by the lapse of the period. The captive, the stake-won, and the self-offered, are emancipated, according to NA'RADA, cited in the *Mitāksharā*, by finding a substitute equally capable of labor,—that is, according to the *Vivāda Chintāman'i*, another slave. For the apostate,

NA'RADA cited in the *Vivāda Chintāman'i* and YA'JNYAWALKYA in the *Mitāksharā*.

the only release is death. He is the slave of the King. Texts of Hindu Law specially provide for the release of those enslaved by force or by fraud of kidnappers and the interference of the King is required. Digest 40, 41.

29. It thus appears that for the mass of slaves which fall within the first five classes, the law has given little hope of emancipation.

30. There are two texts of MENU, which, if taken literally, abridge that hope. A BRAHMAN may compel any SUDRA, though unbought, to render service of a slave (*Dása*) to him; for he was created to serve the Brahman, and even the emancipated is not released from his servile state which is natural and indelible. (Chap. VIII. V. 413 and 414.) Digest B. III. C. 1. V. 36 and 38.

31. The Commentator adds "for spiritual purposes it is necessary that obedience be paid by a Sudra to the Brahman or other twice born man. This is what "is meant, else the subsequent enumeration of slaves would be nugatory;" that is, if a Sudra can never escape from servitude. The author of the *Chintámáni*, commenting on the last of the two texts, states it is meant to express contempt of slaves; otherwise purchase and other causes of slavery would not be pertinent in regard to Sudras, nor would they be capable of manumission. It is mentioned by him as a passage of the *Murkandeya Purána*.

32. The author of the Digest has a long and, as usual, unsatisfactory comment on the above terrific texts. He denies that the Sudra is born a slave to all men, or becomes the slave of any one who takes him; but intimates that the relation of master and slave is indissoluble. Regarding the text as applicable to the slave licensed not enfranchised,—he supposes the case where such slave undertakes the service of a second master. In that case he belongs to him and may be coerced to do servile work without penalty incurred by the second master.

33. In one instance the power of the master to sell seems limited. According to a text of KATYAYANA, cited in the *Chintámáni*, a man not urged by distress who attempts, to sell his female slave who is obedient and objects, is to be fined two *panas*. The text implies that the sale would be illegal. Digest B. III. C. 1. V. 60.

34. The issue of a slave is a slave. This is implied by the definition of the house-born, and the position that the free woman who marries a slave becomes a slave of her husband's master. If a man, without stipulation to the contrary, allowed his slave girl to marry a free man, it should follow that she would be released from her master. But if his assent were wanting, his property in her would remain undisturbed, and the offspring, on the general principle of the greater right of the owner of the soil, would be his. This principle is distinctly laid down in *Menu* Chap. IX. V. 48 et 55. But if some of the Natives, examined by the Law Commission, are accurate, this rule on defect of stipulation, does not seem always to be the local usage. One witness, a resident of Cuttack, says the local usage is the converse of the legal rule; and others have stated that in the absence of special agreement, the masters of slaves who have intermarried, share the progeny.

35. The 8th of Mr. MACNAGHTEN'S Collection of Precedents on slavery has a construction of Hindu law resting on reasoning. If A would sell his slave B to C for a fixed price, and by such sale a great grievance would be inflicted on B,—as for instance, his removal to a distant country,—then in that case, if another purchaser, at the same price offer whether designated by B or not, A must sell to such other purchaser. The reason assigned is that the master would suffer no loss. The present Pundit of the *Sudder Dewani Adalat*, VAIDYA NA'TH MISHRA, who gave this opinion has been examined by the Law Commission, and states that it would be



considered as oppressive, to sell a slave, so as to place him beyond the reach of communication with people of his own class, or to separate families. The Courts ought to interfere to prevent such sales. There does not appear to be any legal authorities manifesting such tenderness for the slave, and if the Pundit's doctrine is to be taken for law, it must be considered as resting on popular usage and feeling, to which is opposed any oppressive exercise of his power over his slave by a master.

J. C. C. SUTHERLAND, *Secretary*.

Calcutta, }  
February 1st, 1839. }

No 2.

## HINDU LAW ON SLAVERY.

### A D D E N D A.

Since my first paper on this subject dated 1st February, annexed to the Report of the Law Commission, I have investigated three points by desire of the Commission which I proceed to notice.

*I. Does the legal Krīta, or "slave-bought" include the child sold by his parents; that is, have they legal authority to sell their child?*

Digest B. II. C. I. V. 29  
et V. 33.

The "Kṛita," or bought-slave, of the texts of NĀRADA and MENU is merely explained, in the Commentaries as "bought by price." It is necessary, therefore, first to consider the texts which exist most akin to the subject proposed, viz. the parental power to dispose of a child by gift,—in which sale is of course implied.

Digest B. II. C. IV. V. 4.

Digest B. II. C. IV. V. 5.

————— V. 16.

*Dattaka Mimāṃsā*. S. IV.  
§ 5 p. 43.

Digest B. II. C. IV. V. 9.

————— V. V. 6.

————— V. V. 8.

There are,—a text of NĀRADA which enumerates son and wife amongst things not to be given even in calamity;—a text of VRIHASPATI<sup>2</sup> prohibitory of such gift;—text of YĀJNYAWALKYA<sup>3</sup> allowing in distress, gift of property for support of family, except a wife and a son;—an anonymous text<sup>1</sup> which declares "the father is not absolute over a son in respect to gift and sale;"—a text of DĀTA<sup>5</sup> which enumerates a wife (but not a son) as not to be given, even in distress. The giver is said to be a fool and must expiate his sin by penance. There is also text of KĀṬYĀYA'NA<sup>6</sup> prohibiting gift or sale of a wife and son without their assent except in extreme necessity. Some verses likewise of VASIṢṬHA<sup>7</sup> occur prefatory to the subject of adoption. These declare, in very extensive terms, the power of parents to give and desert their son,—because authors of his existence.

*Dattaka Mimāṃsā* S. IV.  
§ 5 et 6.

We have then three positions, 1st, the general prohibition; 2d, the exception to it in KĀṬYĀYA'NA's text; and 3rd, the absolute power implied by VASIṢṬHA's text.

The *Mitāksharā* on the subject of things not to be given cites the texts of YĀJNYAWALKYA and NĀRADA. The comment notices that a wife and son are not to be given. The *Iyarahur Mayukha* cites the same texts with the same gloss. The *Īrāda Chintāmāni* of VACHASPATI MISRA (a Tīrthut work) on this topic first cites the text of NĀRADA. Commenting on it, the author says that against the assent of a wife and son even in a calamity they are not to be given. He then cites the

text of KA'TYAYANA, to shew that if they be willing they may be given, and directs his comment to this point. The exception, apparently made in case of extreme distress, the author does not notice, and leaves us to infer that, assent even then is wanted, according to his doctrine. He then proceeds to quote VASISHTHA's text, which he says contemplates assent.

The texts of NA'RADA and YA'JNYAWALKYA are alluded to by the author of the *Dattaka Mi'māṃsā* (a treatise on adoption), who cites the text of VASISHTHA. He says that the prohibition of the gift of a son, contained in the texts of YA'JNYAWALKYA, and NA'RADA and in the anonymous text, refer to the case of a single son,—to make them square with the texts of VASISHTHA and SAUNAKA. He alludes to the sequel of VASISHTHA's text and a parallel text of SAUNAKA forbidding the gift of an only son with reference to adoption. It is a violent effort of construction to attempt to reconcile these texts which regard distinct subjects, and, I think, the authority of NANDA PANDITA, the author of the *Dattaka Mi'māṃsā*, may be disregarded as irrelevant.

The author of the Digest, in quoting KA'TYAYANA's text, says that in the exceptive clause, “with assent,” must be understood,—to obviate collision with NA'RADA's text.

He adopts, what seems the opinion of the *Ivāda Chintāmāni*, and gets out of the difficulty by a strained construction.

The author of the Digest justifies the gift of a child in adoption,—on the principle of the distress of the adopter who has no son,—and not on the principle of “silence gives consent.” Therefore if assent be required, according to him, it must be the assent of a boy or wife arrived at, or approaching to, the adult age. The power to give or sell with assent only, is not irreconcilable with the general prohibition.

Comment on NA'HA.  
text V. 7.

The text of VASISHTHA, as already noticed, is introductory to adoption and the *Ivāda Chintāmāni* construes it as regarding the case of assent. Unless qualified or explained it is at variance with the other authorities.

It might be also objected that, the text of KA'TYAYANA or any of the other texts cannot refer to reduction to slavery under any circumstances,—because they are general and would apply to a Brahman who is not liable to slavery. I am not disposed to avail myself of this argument; because a Brahman, though he would not become a slave, might be given as a pupil or dependant to be brought up, assisting his fosterer in any suitable mode. If a Brahman would prostitute his willing wife to a Brahman (at least),—I fear the Hindu law regards the immorality with no great indignation. Though perhaps the Raja under his general power to preserve his subjects in the right path, might interfere,—as it would be his duty to do, if a Brahman were inclined to degrade his son.

The author of the Digest, in commenting on the bought and given slaves of MENU's text, says “sold or given by parents or self-sold or self-given.” But in the comment, on the parallel text of NA'RADA before cited by him, he only gave this usual gloss “bought by price.” In his comment on MENU's text on slaves, the author of the Digest may have forgotten the text of KA'TYAYANA which he had before construed, or he may have considered assent of the son to being sold or given as understood,—or most likely he only adverted to local usage, with which the late famine had made him familiar.

Mr. COLEBROOKE in his paper cited in HARRINGTON's Analysis declares that, the Hindu law recognizes sale and gift of children into slavery by parents, and Mr. MACNAGHTEN has quoted that paper without questioning the position. But Sir THOMAS STRANGE cites a letter from Mr. COLEBROOKE, in which he mentions the

slave-bought of his master as an instance of the "*Kṛita*," or bought-slave. But the omission of the child sold by a parent is not conclusive that Mr. COLEBROOKE questioned the parent's power.

Translation of the VYAVASTHA of the Pundits of the *Sudder Dewani Adalat*, taken on the reference in 1808, made by Mr. RICHARDSON, forms part of slavery in Indian papers, printed in 1828. It is made from the Persian translation, which is always subjoined to the original Sanscrit of those expositions. These versions are generally slovenly made; but they sometimes contain words of illustration introduced by the Pundits who aid in the translation. Thus in the English version noticed, the "*Kṛita*" slave is described as one bought from his parents or former masters. On reference to the original Sanscrit, I do not find these words of illustration. Mr. MACNAGHTEN has also in his work, given, (apparently from the English version,) an abstract of the VYAVASTHA. In this he has retained the illustration of the slave sold by his master, but omitted the instance of purchase from parents. As in his section on slavery, he has not questioned the parent's power, (mentioned by Mr. COLEBROOKE whom he quotes,) it may be presumed that, the omission did not proceed from doubt in his mind. I consider it as almost certain that, the words of illustration found in the Persian version, (from which the English version was made,) were inserted on the explanation of the Pundits. We may conclude, therefore, that they entertained no doubt generally as to the legal power of the parents to sell their children,—though probably they had not investigated the origin of such power, whether resting on texts of law or popular usage and recognition.

Of the subsidiary sons legal under the old law, the son bought of his parents is now reprobated; but MENU and other inspired writers, recognize the power of the parents to sell their sons for adoption. But it would be a stretch of construction to argue therefrom that, they recognize the power to sell their children into slavery. I have not, therefore, taken them into account.

If a father, without assent, could in necessity by the Hindu law give or sell his son, it would follow a fortiori he could give or sell his daughter. But do the texts prohibitory of a gift of a son bar that of a daughter? I am inclined to think they do,—the words wife and son being only illustrations. If they do not, what scriptural authority is there that a man may sell his female children unless it be the verses of VASISHT'HA; which we have seen in the instance of the son are contradicted and construed (though with little show of reason) as implying assent?

On the whole, it appears to me that, it would be difficult on direct scriptural authority to establish the legal right of the parents to sell their children, into slavery under any circumstances. That power, exercised as it always has been by particular classes, seems to me to rest rather on popular recognition and usage, and is subject to those limits and restraints which varying local institutions may impose.

A BRAHMAN cannot, as already observed, legally be a slave. If then a BRAHMAN were to sell his child into slavery, the contract would be hardly valid, and the ruling power on Hindu principles ought to restrain a BRAHMAN who would dispose of his child so as to degrade it. The same observations would apply to the XATRIYA who cannot be the slave of an inferior. Those, therefore, who buy children as slaves, should be prepared to show that they belong to classes liable to slavery according to local usage,—which the evidence taken by the Law Commission shows to vary considerably.

## II. *Power of the master over the person of his female slave.*

The opinion of the Pundits of the *Sudder Dewani Adalat* taken in 1809, has already been mentioned. The 4th question put to them was not sufficiently searching so as to draw out an exposition of the whole law on this topic. It was limited to the case of the unadult. The Pundits, therefore, answering only what was asked, declare, that if the master violate his unadult female slave, or allow another to have connection with her, the Court cannot adjudge emancipation, but may impose a fine of fifty *pans*. As the answer stands, it may be understood as implying the power to violate an adult female slave.

On reference to the original opinion, I find, that this answer rests on a text of *YA'JNYAWALKYA* cited in the *Mitákshará* in the chapter on the intercourse of the sexes,—a topic of Hindu criminal law, which does not appear to have been investigated, and to which, for the present occasion, reference must be had.

Penalties are prescribed by Hindu law,—for connection with married women and girls; and for their violation. The penalties for the four classes, vary according to circumstances,—the cast of the parties,—the guarded or unguarded condition of the females. Thus, for adultery with a guarded *BRAHMANI* or rape on any *BRAHMANI*, a *SUDRA* is to suffer death. But a *BRAHMAN* for rape on a *SUDRA* woman is only fined 1,000 *pans*. Except when the male offender is inferior in cast, the penalty for adultery is fine.

For rape, the penalty seems to be death, when the parties are equal and when the male is inferior. But when the male is superior, this penalty is not prescribed. What the prescribed penalty may be,—is not, indeed clear. There is a text of *MENU* which would imply death to be the penalty of adultery in all cases; but this is explained away either to apply to a particular case, or to the case of the *BRAHMANI* offending with an inferior man.

After noticing penalties for offences against wives and unmarried women, the author of the *Mitákshará* passes on to penalty for connection with common women. The text quoted by the Pundits of the *Sudder* is here adduced. It is to the effect, that the male, who has connection with female slaves interdicted from going abroad or kept as concubines, is to be fined fifty *pans*,—although otherwise intercourse with them had not been illegal. It is explained, that they are approachable by all in as much as they are common,—that is, neither wives nor protected daughters. The principle of this penalty is, that, such slave girls are *quasi* wives, as appropriated women. *NA'ADA* who is cited, says, that with,—the wanton woman not being a *BRAHMANI*,—the courtesan,—the unrestrained slave girl,—intercourse is allowed if not superior in tribe. A long moral argument now ensues, in which it is discussed, whether there be any class of women, with whom casual intercourse is allowable. The result is that, though it is an immorality to be expiated, it is not a temporal offence for which penalty is awarded. After some words on the subject of atonements, which may be omitted, the author passes on to an exception as contained in this section of *YA'JNYAWALKYA*. Ten *pans* are prescribed as the penalty for connection with a female slave by force. The penalty for several who coerce her is twenty-four, payable by each. The gloss says, that the fine is payable by him who with force has connection with female slaves living by prostitution, wanton women and the like,—without paying them their hire.

The further analysis of this section cannot be decently pursued. It is curious as shewing the lax morality of Hindu legislation, which even provides rules in regard to the hire of prostitutes. The comment cited, implies also that, the text does not

refer to the slave of the man himself,—since mention of hire is made. It shews also however, that it applies to any prostitute; and therefore, the smallness of the fine does not necessarily suggest impunity of the master who commits violence on his female slave. It is obvious, that the text cited by the Pundits of the *Sudder Dewani Adalat* is quite irrelevant to the point,—in support of which it is adduced.

If the master's violence on the person of his unwilling female slave, adult or unadult, be illegal under the Hindu law, other argument or proof must be sought. If lawful, it can only be so, from the plenitude of the dominical power; and on the same principle, it might be contended, that the master might kill or mutilate his slave. But these are the offences which the Hindu Rajá in exercise of his discretionary power is competent to restrain and punish; and so also for the sake of good government to keep his subjects in the right path, the Rajá must be held by the Hindu law as competent to restrain and punish the violence of the master on his female slave. Sexual intercourse with his willing female slave is immoral. The violence is doubly so.

The Hindu Criminal Code does not define every offence: nor even where penalties (as in the case of adultery and rape,) may vary according to the class of the parties, do the provisions of the Hindu law meet all instances. Thus, texts of law define the penalty, if a *XATRIYA* ravish a *SUDRA* female the wife of another man, but not if he ravish a *SUDRA* unmarried girl. Again, there are express texts which give the King power to extend the mulct for adultery, when inadequate from the wealth of offenders. On the whole then it appears reasonable to me to hold, that it is not by Hindu law, lawful for the master to violate his female slave. But the offence, when at least the female as adult, is not in the eye of Hindu legislation very grave; for the aggravation of the master's inferiority of class, is of course wanting.

### *III. The power of the master to correct his hired servant under the Hindu law.*

A doubt in this regard arose with reference to the text cited as anonymous by the author of the Digest in his notice of slaves. It is noticed in the 15th para. of my first paper.

The author of the *Mitákshará* has cited this text in his chapter treating on actions not receivable. He explains that it is not meant to exclude litigation in extreme cases between the correlatives referred to in the text. For instance, if the pupil be corrected beyond the legal sanction, the King shall take cognizance. So also if the born slave, (here designated *Garbh das*,) save his master's life, he should have his action for the benefit to which he is entitled. The author adds,—“the instance of the case of the slave for his food will be given.” He refers to the text of *YAJÑYAWALKYA* cited in the section on slavery which says, that such slave is released on relinquishing his food. Therefore, if detained, he has his remedy. His conclusion is that, the pupil and other inferior shall at first be checked and prohibited by the King and Assessors. The word *Bhritya* translated in the Digest as “servant,” means any person supported, a slave or hired person. The author of the *Mitákshará*, in his copious illustration of the text, has not adduced the instance in which the action of the *Bhritya* in the sense of a hired person shall be received. It perhaps may be, that he considered the word as used in the sense of slave. *Swami* “rendered master” in its primitive sense, is owner.

Vide Dig. B. III. Ch. 1.  
V. 44.

Dig. B. III. Chap. 1.  
S. III. V. 68.

Passing on to the subject of wages and hire,—the author of the Digest cites a text of APASTAMBA, which provides that the agricultural servant and herdsman may be beaten (and moreover the cattle of the latter be detained,)—if they abandon their work, and if the work be lost. The latter condition is omitted in the translation.

The *Chintámáni* explains the default meant to be that of running away. This renders consistent the detention of the cattle of the runaway. This text,—extended as it reasonably may be and connected with the declared illegality of litigation between certain correlatives,—may be construed as supporting the master's power of moderately correcting a hired servant.

The 299th verse of the 8th chapter of MENU provides, that “a wife, son, pupil, *Dása* and younger brother may be corrected if they commit a fault, with a rope or small shoot of cane.” This seems to include the same correlatives as the anonymous text,—the *Bhritya* and *Dása* being considered as synonymous: and so in fact they are: for both may denote a servant generally and a slave specially; through *Dás* is most generally used to denote the latter.

If the contempt in which the Hindu law, in its primitive rigour, regards the servile class, be considered,—it does not seem unreasonable to recognize as contemplated by it, the master's power moderately to chastise his hired servant of the servile class.

Against however this conclusion, there may be adduced an argument, drawn from the texts of other inspired writers, which, are silent as to the master's power to punish and indicate other recourse. For instance, the recusant servant is to be coerced and fined.

VRIHASPATI Dig. B. III.	
C. I. S. III. V. 71 and 75	
YASNYA WALKYA Idem	72
NA'ARADA	73
KATYAYANA	74
MENU	76

These texts however seem to regard, the case of recusancy, and not that of neglect and fault falling short of refusal. MENU's text has the word *Bhritya*, which is necessarily rendered by Sir WILLIAM JONES, “hired servant;” because the text has relation to wages.

*Opinion of VYDIA NÁTH MISR, Pandit of the Suddur Dewanni Adaw- No. 3.*  
*lut, on the power of parents to sell their children into slavery.*

For the sake of obviating calamity, the father is competent to sell as slave to another, his son or daughter, who is incapable of giving assent—that is, who is not adult, and according to usage the buyer becomes master of the slave, male or female, so bought. But by the shaster, the father is not competent to sell into slavery his son or daughter without their assent even though it be to obviate a calamity. The assent of his son or daughter being obtained, the father may sell them into slavery whether calamity exist or not.

#### PROOFS.

1. VISHNU,\* cited in the *Véira Mitrá Daya*, and other books. “Man, produced from virile seed and uterine blood, proceeds from his father and mother as an effect from its cause; therefore his father and mother have power to give, to sell, or to abandon their son.”

\* Elsewhere cited as VASANT'HA's Text.

2. Text of *Catyáyana*, cited in the *Viváda Chintámáni*, and other books.

“A wife, or a son, or the whole of a man’s estate, shall not be given away or sold without the assent of the persons interested. He must keep them himself. But, in extreme necessity, he may give or sell them *with their assent* ; otherwise he must attempt no such thing : this has been settled in Codes of Law.”

### ANSWER TO THE SECOND QUESTION.

In every class, the father, or mother with his leave, or both, have the power to sell their children to obviate calamity, their assent existing : for this is shewn in the cases of sons given and bought. But slavery of a Brahman is universally prohibited. The prohibition, therefore, of sale of his children, into slavery by a Brahman is established by inference. Thus the Brahman’s power to sell his children into slavery is barred in Law.

### PROOFS.

Text of *MENU* cited in the *Mitákshará* and other books. “He is called a son given (*Dútrima*) whom his father or mother affectionately gives as a son, being alike (by class) and in a time of distress ; confirming the gift with water.”

Text of *YA’JNYAWALKYA* cited in the same and other works. “The son bought is one who was sold by his father and mother.”

Text of *YA’JNYAWALKYA* cited in the same and other works. “In the direct order of the four classes, slavery is legal. Not in the inverse.”

Text of *CATYAYANA* cited in the *Viváda Chintámáni* and other works. “The law permits the servitude of men of the Military, Commercial, and servile classes, to one of an equal class on some account. But on no account let a man compel a Brahmana to perform servile acts.”

### ANSWER TO THE THIRD QUESTION.

For the sake of obviating calamity, the mother with their assent is competent to sell her children whether the father be alive or dead,—his authority or assent (implied by non-opposition) existing. Otherwise she is not competent. The sale cannot be made by a near kinsman or a guardian.

### PROOFS.

Two authorities in support of answer to first question.

Text of *VASISHT’HA*, cited in the *Dattaka Mi’mánsá*, and other works. “Let not a woman either give or receive a son in adoption, unless with the assent of her husband.”

Passage in the *Dattaka Chandrika* comment. “If there be no prohibition even there is assent: on account of the maxim;”

The intention of another, not prohibited, is sanctioned.

27th February, 1840.

*Opinion of VAIDYA NA'TH MISR, Pundit of the Suddur Dewanni* No. 4.  
*Adawlut, as to the power of the master to correct his adult free servant for misconduct, dated 31st March, 1840.*

Punishment consisting of corporal chastisement and so forth is to be inflicted by the king. On account of any fault of his hired adult servant who receives wages, the master cannot inflict it. He can only dismiss his servant; for there is not any text of any Muni ordaining this.

*Muslim Law of Slavery.*

No. 5.

1. Before the power of MUHAMMAD, slaves (captives in war or their issue) formed an important part of the wealth of his countrymen. The wars, by which his faith was spread, must have added greatly to the slave property of the conquerors.

Preface to HAMILTON's translation of the *Hidāyah*, page 43.

2. The Koran enjoins the slaughter of idolaters and war with infidels, until they confess the unity of God. Such confession, or submission to the *Jaziyat* or capitation tax, entitles them to protection;—otherwise the *Imaum* is to direct the army of the faithful against the refractory infidels, and if he prevail, he may either slay them or reduce them to slavery. They are to be distributed amongst the conquerors. Proselytism after capture did not save the captive from slavery. Nor is it a legal exception to servitude.

Do. B IX. Chap. 1 et 2, ps. 140 and 145. V. 2.

3. The Muftis of the *Suddur Dewanni* and *Nizamut Adawlut* have laid down that only capture in a holy war, or descent from such a captive, constitutes the slave legal to a Muslim master. Though the *Hidāyah* does not allude to any other source of slavery, yet it does not seem to restrict its legality to these conditions; which in fact would exclude descendants of a large mass of slaves existing before the holy wars. According to the *Kaduri*, *Muhit*, *Ināyah* and *Zakhirah*, self-sale may be a legal origin of slavery; but it is qualified with the condition of extreme distress;—for instance, to preserve life, or to satisfy a debt when compulsory measures are threatened. The *Hidāyah* (though not alluding to self-sale) says that, the sale of a freeman is null because he cannot be property: and sale is the exchange of property for property.

Do. C. IV. p. 159, and opinion of the Muftis of the *Suddur Dewanni Adawlut*, being 28th Precedent MACNAGHTEN's Mouhummudan Law.

See Slavery in India, papers printed in 1828, and MACNAGHTEN's Mouhummudan Law Slavery 2d Precedent. This opinion was given in 1808 in consequence of a general reference by Mr. RICHARDSON, Magistrate of *Bundicund*.

V. MACNAGHTEN's Mouhummudan Law and Precedent of Slavery, Case 4.

B. XVI. C. V. Vol 2, p. 428.

4. HAMILTON's English translation of the Persian version of the Arabic *Hidāyah* was published in 1791. Both were undertaken under the authority of the Governor General. The author of the Arabic compilation was the celebrated lawyer BURHAN-UD-DIN-ALI, a Native of *Marghinan*, who wrote in the sixth century of Islam. His compilation embodies the doctrines of ABU HANIFAH and his disciples YUSAF and MUHAMMAD. The former, the founder of the principal Orthodox School, was a native of *Kufa*, and flourished in the 2d century of Islam, having been born A. H. 80. The *KADURI* is the surname of AHMUD BEN MUHAMMAD, the author of the *ADAB-UL-KAZI*. He expounds the doctrines of HANIFAH. He died A. H. 438. The *Muhit* is the work of RAZA-UD-DIN MUHAMMAD of *Sarakhy*, in *Syria*. He was Principal of the College of *Aleppo*, and died A. H. 571. There are three legal compilations under the name of *Zakhirah*.



The author of the *Fiḍāyah* was AKMAL-UD-DIN, the son of MAHMUD, the son of AHMAD AL HANIFI, or orthodox. He died in 789 A. H. particulars of his birth place and life are not known. He was probably a native of Syria.

V. Appeal of *Смекн Кна-  
ва's* and others. Case 21.  
Printed Reports, *Sudder  
Dewanny Adawlut* for 1830.

5. The *Sudder Dewanny Adawlut* in 1830, in an appeal, adopted the opinion of its Muftis just noticed, and imposed on the claiming master the burthen of proving, that the slavery of his claimed slaves was derived from the narrow legal origin defined by the Muftis. The effect of this decision in this part of India is, that no Muslim can ever make good his title to the services of a recusant slave.

6. After this virtual extinction of Muslim slave ownership, a very minute investigation of the civil law of the Arabs applicable to the relation of master and slave is not required. But the knowledge of adjudged points slowly spreads amongst our native subjects; and since the notions of the Indian Muslims as to the reciprocal rights and obligations of master and slave must always be strongly influenced by the Muslim law, as laid down in standard works,—it is on the present occasion, an object of some importance to enquire into the state of that law, and collect from such works the leading principles and rules affecting the rights and obligations premised. But perhaps in India, Muslim slave ownership may have more relation to local usage than the civil law of the Arabs.

7. In the preface to this translation of the *Hidāyah*, Mr. HAMILTON remarks, that the discussion concerning slaves occupies one-third of the whole work,—a strong proof of their importance as property in the early centuries of the Arab Empire. Many of the rules and usages which are there collected, are in India unknown; and unpractised, even though sanctioned by the Koran. Whence it may be inferred, that the slaves owned by Indian Muslims are comparatively fewer and less regarded as property.

*Hidāyah* B. 35. C. 4.  
Vol. 3. p. 469.  
Idem p. 472.

8. The absolute slave (*Abd*) is said to be (*Mahūr*) interdict, and, (the case of divorce excepted,) his act unsanctioned by his master is not binding, so long as his slavery continues.

*Hidāyah* B. 36. Vol. III.  
p. 493.

9. But if the master license his slave to trade, he constitutes him "*Mazūn*" or licensed; and the acts of such a slave in the way of traffic are binding, until interdiction be revived by the master. His person, and the effects of his business, are liable to be sold for the benefit of his creditors; and if his master has appropriated out of his gains more than a suitable equivalent (*ghalla misla*) for the slave's labor, he must refund to the creditors. Excess of sale proceeds belongs to the master.

Idem V. 3 p. 504.

*Hidāyah* B. 50. C. 1.  
Vol. I. p. 420.

10. Manumission of a Muslim slave is enjoined by the Koran as a pious act; and the law has provided for several modifications of bondage and prospective freedom.

#### MUDABBAR.

B. VI. C. 6. Vol. 1.  
p. 475. et Seq.

Preface of Translation  
p. 68.

B. VI. C. 6. Vol. 1.  
p. 477.

Idem 475.

11. The slave to whom liberty after his master's death is promised, is technically called a *Mudabbar*. This *post obit* manumission (*Tadbir*) existed as a usage at the time of MUHAMMAD. *Tadbir* was sometimes restricted (*Mukayad*) by the condition of the master's death,—within a defined time,—or from a particular illness. It did not confer the privileges of the absolute *Mudabbar*. The promise of *post obit* freedom is essentially a bequest, and the slave is said to be enfranchised out of the bequeathable one-third of his master's estate. Thus, in case, of exhausting claims of creditors or of deficiency of assets, the expectant slave might owe emancipatory labor (*Saat*), for the whole, or part of his value, to the creditors or heirs of the deceased.

12. On a dictum of the prophet, the female slave, who has borne a child to her master, establishes her freedom, and she is absolutely entitled to it on his death,—provided the master acknowledge the child. Could she claim it before, concubinage with her would be illicit. She is technically called *Umm-ul-vald*.

*UMM-UL-VALD.*  
*Hidāyah* B. V. C. 1.  
Vol. 1. p. 479.

13. The Koran also exhorts the master, to grant a covenant (*Kitābat*) to his slave, in whom he finds "good," that is, to his Muslim slave. This also probably, was a pre-existing usage. The covenanted slave, after acceptance, becomes a *Mukatab*. A deed, as is implied by the words, was usual, but not indispensable. In this transaction, the master assures to his slave liberty for a consideration (*badal*) in return, to be paid by him; usually a sum in instalments. The slave acquired his freedom, defeasible in case of default in the payment of the consideration. But annulment of the covenant must be judicially awarded and a short grace is allowed after enquiry.

*MUKATAB.*  
V. *Hidāyah* B. 32. C.  
Vol. 3. p. 377.

14. Covenanted enfranchisement, is distinct from manumission in exchange for property (*Itāk b'irazu Jaal*.) The distinction is one of those ingenious subtleties in which Arabian Jurists delight. If a slave accept the proposal of his master, that he shall be free for a 1000 dirams, he is free at once before payment, and owes the money, for which bail may be taken. This is said to be a contract of exchange of property for what is not property, the slave not being owner of his own person; and the effect of the contract, (his freedom) is established on acceptance by the slave of the stipulation. But the stipulated consideration in *Kitabat* is not considered as a debt, nor is it cautionable. It is allowed to exist, from necessity, together with what is repugnant,—viz. the duration of servitude though in a suspended state.

*Hidāyah* B. 18. C. 3. Vol. 1.  
p. 604.

15. If a master were to propose to his slave that he should be free, when he shall have paid him a sum of money and the slave accept,—*Kitabat* would not be constituted thereby; for the freedom would only begin from the payment of the money. Whereas in the case of *Kitabat*, freedom (though defeasible) begins from the time of the bargain. But in the case now put, the slave becomes licensed, because the master excites him to earn: and the master may be compelled to take the stipulated exchange.

*Hidāyah* B. 3. C. 5  
Vol. 1. p. 468.

B. 18. C. 3. Vol. 2. p. 604

16. The *Mukatab* slave till, in consequence of default, he is brought back into slavery is practically free, and the master cannot exercise over him any act of dominion. Nor can he alienate by sale or gift, nor pledge his *Umm-ul-vald* or *Mudabbar*. He may let out to hire these latter two. Other classes of slaves he may sell, or dispose of as he pleases.

*Hidāyah* B. V. C. V  
Vol. 1. p. 469.

*Idem.*

17. A slave is considered as property, and often denominated *mamlūk*, or owned. The theft of an infant slave is punishable as such. The acquisitions of a slave belong to the master,—except when made under the contract of *Kitabat* and during its continuance.

B. V. C. G. Vol. 1. p. 470.  
*Idem* 475.

18. A slave even though covenanted cannot marry without the assent of his master, and (except the *Mukatab*) may be contracted in marriage against his will. Married with assent of his master, a male slave may be sold for his wife's dower: but if he be *Mukatab* or *Mudabbar*, he must work it out by labor.

B. VIII. C. II. Vol. 2.  
p. 91.

19. The state of the child follows that of the mother. If she be slave, her children are the slaves of her master of the same quality and in the same degree as she was at the time of their births respectively.

*Hidāyah* B. II. C. 4.  
Vol. 1. p. 161.

*Idem* p. 162.

20. A slave cannot be the spouse of his or her owner. If then, one spouse become the owner of the other (a slave,) the latter is emancipated: and a wife, married when a slave, may dissolve the contract when free.

B. V. C. 7. Vol. 1. p. 481  
*Idem* p. 477.  
B. XXXII. C. 3. Vol. 3.  
p. 400.

B. IV. C. 2. Vol. 1. p. 225  
B. II. C. 3. Vol. 1. p. 166

- B. V. C. I. Vol. I. p. 492. 21. The relation of master and slave cannot obtain between those related within the prohibited degrees.
- B. 44. Sect. 4. Vol. 4. p. 102. 22. The dominical power seems under the law to be most extensive. The master may use and abuse the person of his female slave, who is neither a *Mukatab* nor married with his assent to another.
- B. VII. C. 5. Vol. 2 p. 70. 23. The embrace of his pagan slave is illicit; and if the master enjoy his *Mukatab* he is liable to pay her an *Akar* or portion.
- B. XXXII. C. I. Vol. 3. p. 381.
- B. L. C. 4. Vol. 4. p. 385. 24. His liability,—to lose his slave guilty of an offence, involving fine to the injured party, or to pay the fine,—may have been supposed to justify an extensive power of restraint and coercion. SHAFI,\* a celebrated jurist, contends, that his power is absolute and greater than that of the *Kāzi*; whence he argues his right to inflict the defined penalty of fornication on his offending slave. The jurists of the *Kufa* school, though they deny his power in this case, admit his power to chastise. It is exercised in vindication of an individual right.
- B. VII. C. I. Vol. 2. p. 13. „ C. 6. p. 75.
- B. XVI. C. 4. Vol. 2. p. 413. 25. There seems indeed reason to believe, that according to the doctrine of the lawyers of the early centuries of Islam, the master might put his slave to death with impunity. In the *Hidāyah*, there are no less than four cases propounded, in which, as if it were a matter of course, the master is supposed to have exercised this authority.
26. One case deserves particular notice. It occurs in the chapter which treats of the option which arises to the buyer in case the object of the sale prove defective. I translate it from the Arabic text. “Should the buyer have killed the “slave bought, or, (if the article were food) have eaten it, he has no recourse against “the seller according to ABU HANIFAH. The first instance is mentioned in the *Shihir Rawāyūt*. But according to ABU YUSAF, he has such recourse; for no “worldly sentence attaches to the murder of a slave by his master, and the case “becomes the same as if the slave had died a natural death: and the transaction “therefore becomes concluded. The reasoning of the *Shihir* is this. By murder, “responsibility is always incurred; which, in the case propounded, only fails in “respect of proprietary right; and the master gets as it were a *quid pro quo*; “contrary to the case of enfranchisement: for certainly, that is not the cause of “responsibility, any more than the manumission by a pauper of a slave owned in “partnership.”
- B. XLIX. C. 2. Vol. 4. p. 279. Idem 299. 27. The legal penalty of murder is retaliation, which is considered a private right, demandable or componible, at the discretion of the legal representatives of the slain. It follows, therefore, that in the case premised, this penalty cannot be enforced; and it may be argued, that this is what is meant, and that it does not follow, that the murderer would be necessarily unpunished: for the ruling power, on the principle of good government, is held by Mahummadan Jurists, to be invested with a discretionary power to punish crimes and misdemeanors when there may be no specific penalty or no private vindicator. This may be the case: but the strict jurists of the early schools of Mahummadan law, took little account of the possible exercise by the Sovereign, of a power beyond the letter of the law. In another passage in the *Hidāyah* it is distinctly laid down as a general principle, that the master is not liable to punishment (*Akubāt*) on account of his slave.
- Hidāyah* B. 7. C. 5. Vol. 2. p. 63. 28. The *Futwa* of the Muftis of the *Sudder Dewanny Adawlut* already mentioned, however, distinctly lays down, that the master can only inflict moderate

\* SHAFI is founder of one of the four orthodox Sects, and descended from MUHAMMAD's maternal grandfather. He was a native of Palestine. He died A. H. 204.

correction on his slave, and that any cruelty or ill-usage inflicted on his slave, legally exposes him to a discretionary punishment (*Akibat* or *Tazir*) by the ruling power; and such discretionary punishment extends to death.

29. If, for the sake of good Government, the ruling power may visit, with discretionary punishment, the murder of a slave by his master, it should follow also, that on the same principle, it can punish instances of cruel treatment. The *Hidāyah* says, "it is abominable to affix an iron collar on the neck of a slave whereby he "may be unable to move his head. Such is the custom of tyrants, for this is the "punishment of the damned. It is therefore *abominable*\* like burning with fire." The author adds however, that a Mussulman may imprison his slave, whereby he may not abscond and the master's property may be preserved. This is said to be analogous to the custom, which prevails amongst Muslims of confining insane and mischievous persons. According to ABU HANIFAH and ABU YUSAF, what is abominable, approaches in its character to what is unlawful without actually being so.

*Hidāyah* B. 44. S. 7.  
Vol. 4. p. 125.

\* HAMILTON has here substituted "unlawful" for abominable, which occurs in the text.

*Hidāyah* B. 44. Vol. 4.  
p. 86.

30. It is necessary to notice here a passage in the Persian version of the *Hidāyah*, (B. 50. C. 4. V. 4. p. 399.) By it, it is imputed to the elders HANIFAH and ABU YUSAF, as their doctrine that the master is always responsible if he maim his slave or take his property. Such a position would imply, that protection, is extended by the law to the ill-used slave. The passage however, is an explanatory interpolation of the Indian Moulvis who made the Persian translation, and seems inconsistent with the reasoning of the disputants in the case put, as it also is with the case above cited. HAMILTON's version of the Persian paraphrase of this case is loose and careless. For this reason and the importance of the question, I subjoin a translation of the Arabic text.\*

31. Defined penalties under the denomination of *Hudud* are ordained for fornication and adultery (*Zina*), the slanderous imputation of this offence, and for drinking intoxicating liquor. The slave is only liable to half the flagellation ordained for these offences, and is exempt from the penalty prescribed for adultery. To the amputation, single or double, ordained for theft and highway robbery,—and to the punishment of death in the right of God when murder is committed in the attempt or perpetration of robbery,—the slave and freeman are equally liable.

B. VII. C. 1. Vol. 2.  
p. 12.

32. Offences against the person (*Janayāt*) are atoned for by retaliation or price (*Diyut*) according to circumstances. The right to exact retaliation and fine is a private right remittable and componible.

33. Retaliation of murder obtains between the slave and freeman, but is barred if the murderer be master or father of the master of the slave. It does not take place in matters short of life, if either the offender or offended be a slave. But SHAF'Ī contends that the offended freeman might exact it against the slave. In this class of offences by a slave, the general rule is, the surrender of the slave to the offended party in slavery, or redemption. In case of several offences the single surrender or redemption is a satisfaction of all: but a renewed offence involves novation of liability.

B. 49. C. 2. Vol. 4.  
p. 279.  
Idem 282.  
Idem 295.

B. 50. C. 4. Vol. 4.  
p. 386.

34. But the *Mudabbhar* and *Umm-ul-vald* (who are not transferable) are not liable to surrender by their master. He is to pay the value of the offender or the fine of the offence which ever may be least, and no fine is incurred for numerous offences beyond one value.

B. 50. C. 4. Vol. 4.  
p. 416.

\* See page 385.

35. A *Mukatab* is not liable to surrender during the continuance of his covenant: but in case of offence, (other than murder,) sentence of fine may be awarded against him. If after sentence, from his insolvency, the covenant become annulled, he may be sold in satisfaction. If the covenant be annulled, he reverts to slavery: and for any offence then committed is in the predicament of any other slave.

B. I. C. IV. Vol. 4.  
p. 405.

Idem p. 408.

36. Offences (short of murder) against a slave's person, render the offender liable to pay to his master the value of the slave, or a consideration for the injury according to circumstances. The extreme value of a slave is 9,990 dirhams, ten less than the extreme fine applicable to homicide, not amounting to murder when the slave is free. If the hand of a slave be cut off, half of his value is incurred, not exceeding however the half of the extreme value when an entire faculty is destroyed. It is doubtful whether the master in case he does not abandon (when he is entitled to a full value) shall not forego all remedy or may not obtain compensation for the injury.

B. 20. C. III. Vol. 2.  
p. 689.  
B. 8. C. 14. p. 120.

37. The evidence of a slave is not admissible; nor will his confession in questions of property bind his master. A sentence, of a fine for instance, or of surrender of his offending slave, cannot be awarded against the master on the confession of his slave. But the slave may undergo a defined penalty or retaliation for murder on his confession.

B. 35. C. 3. Vol. 3.  
p. 472.  
B. 4. C. 4. Vol. 4.  
p. 419.

38. A partial emancipation entitles a slave to work out the completion of his freedom. If the owner of a slave emancipates him entirely the slave is free at once, unless the emancipator be unable to satisfy his partuer; in which case the slave works out the rest of his freedom. He has also a legal right to maintenance. The separation of slaves nearly related, if one be an infant, is declared to be abominable: but this does not apply to husband and wife.

B. 16. C. 5. Vol. 2.  
p. 462.

39. A remarkable result of emancipation is the relation of *Wala*, whereby the emancipator becomes as it were, the agnate kinsman of his freedman. He may also become liable, to pay the fine of an offence of his freedman under some circumstances, as his *Akila*.

B. XXXIII. Vol. 3.  
p. 436.

40. The relation of *Wala* confers on the emancipator the right of succession to the residue of the freedman's estate on failure of the agnate kin of the latter. The emancipator is thus preferred to the freedman's cognate kin. By the residue is meant what was left after satisfying the ordained portions of particular relatives. The right of *Wala* rests on passages of the Koran. This right of inheritance descends to the agnate heirs of the emancipator and not his heirs general. It extended, in the case of a male emancipator, to the children of the freedman: but a female emancipator has only the right of *Wala* in regard to her slave enfranchized.

B. V. C. VII. Vol. 1.  
p. 483.

41. It is not clearly laid down, that ownership in a Muslim slave is illegal to the infidel. In one case it is stated that if the *Umm-ul-vald* of a Christian become *Muslim*, and the master cited, refuse to embrace the faith, she becomes virtually his *Mukatab*; and is to work out her value by labor. ZAFFR contends that she becomes immediately free, because it is no longer lawful for her to continue the slave of a Christian. The other jurists argue, that the degradation is removed by making her *Mukatab*. It seems implied by this case, though not very clearly, that ownership of a Muslim slave is not legal to the Christian.

42. The Mahomedan civil law seems to regard the slave as a degraded being and scarcely entitled to protection,—except as the property of his master, whose

power over his slave is absolute. The Koran has some ordinances and several exhortations for the amelioration of the condition and prospects of slaves, and in conformity with these, the early Mahummadan jurists have laid down some salutary provisions,—but insufficient to meet the severities or supply the defects of the strict law; the administration of which, unmitigated by Regulation and Construction, would be impossible to a civilized Government.

J. C. C. SUTHERLAND,

*Secretary.*

\* C A S E.

A emancipated B, his female slave. Subsequently he said to B that he had cut off her hand when she was his slave, to which she replied that he had so done when she was free. In such case her assertion prevails; and so also in regard to every thing which he may have taken from her,—the enjoyment of her person and her earnings being excepted on a liberal construction. This is the doctrine of the two elders. MUHAMMAD maintained that, the master was only liable for an article of which specific restoration might be awarded against him according to the opinion of all jurists: for he denied his liability,—in as much as he referred the act to a state which is opposed to such obligation; just as in the case first put and the cases of sexual intercourse and earnings. In regard to an extant object he has acknowledged the possession in admitting the abstraction from her. Subsequent to this he asserted his proprietary dominion over her, which she denied. Hence her word, as that of negator, prevails, and the award of restoration passes. But according to the elders he admitted a cause of responsibility and then pleaded ground of exoneration. Therefore his assertion does not prevail.

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*Opinion of GH'ULAM SUBHAN, Kāzi-ul-huzat of the Sudder Dewanni No. 6.*  
*Adawlut, as to the power of the master to correct his adult free*  
*servant for misconduct,—dated 26th March, 1840.*

Question. Under the Mahummadan Law may a master for fault and neglect correct and chastise his free adult servant?

Answer. No. For correction and chastizement are a species of punishment. Now to inflict this, according to all the 'Imams, belongs to the Ruling Power. Therefore, the master who hired the servant cannot legally in any way punish the servant or the party hired on the ground of fault or neglect. He can only cancel the contract of hire,—that is, discharge him. \*

\* Nos. 3, 4, and 6 were translated by the Secretary.

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## APPENDIX IX.

### *Official Returns as to Slavery in the Provinces included in the Presidency of Fort Saint George, Madras.*

- No. 1. Letter from the Law Commission to the Register to the Sudr and Foujdaree Udalut, Madras, dated 10th October, 1835.
- No. 2. Reply thereto from the Register of the Madras Sudr and Foujdaree Udalut, dated 10th September, 1836.

#### NORTHERN DIVISION.

##### *Answers of the Judges of the Provincial Court, Subordinate Judges, and Magistrates.*

- No. 3. Provincial Court.
- No. 4. Mr. E. Newbery, Acting Assistant Judge, Auxiliary Court, Masulipatam.
- No. 5. Mr. J. Rohde, ditto ditto ditto, Auxiliary Court, Vizagapatam.
- No. 6. Mr. C. Dumergue, Head Assistant Magistrate in charge, Rajahmundry.
- No. 7. Mr. R. Grant, Judge, Nellore.
- No. 8. Mr. F. H. Crozier, Acting Head Assistant Magistrate in charge, Masulipatam.
- No. 9. Mr. A. Freeze, Magistrate, Vizagapatam.
- No. 10. Mr. A. Crawley, Judge, Chicacole.
- No. 11. Mr. A. Mathison, Head Assistant Magistrate in charge, Guntoor.
- No. 12. Mr. J. Stevenson, Magistrate, Ganjam.
- No. 13. Mr. T. V. Stonehouse, Magistrate, Nellore.
- No. 14. Mr. H. D. Phillips, Acting Assistant Judge, Auxiliary Court, Guntoor.
- No. 15. Mr. J. Rohde, Acting Register, in charge of the Zillah Court, Rajahmundry.

#### CENTRE DIVISION.

- No. 16. Provincial Court.
- No. 17. Mr. F. Lascelles, Judge, Chittoor.
- No. 18. Mr. P. H. Strombom, Judge, Cuddapah.
- No. 19. Juckeey-ood-din Mahammud Khan, Native Judge, Zillah Cuddapah at Cumbum.
- No. 20. Mr. A. E. Angelo, Judge, Bellary.
- No. 21. Mr. H. Bushby, Acting Judge, Chingleput.
- No. 22. Mr. W. Morehead, Assistant Judge, Auxiliary Court, Cuddalore.
- No. 23. Mr. G. M. Ogilvie, Magistrate, Northern Division, Arcot.
- No. 24. Mr. G. J. Casamajor, Magistrate, Cuddapah.
- No. 25. Mr. F. W. Robertson, Magistrate, Bellary.



- No. 26. Mr. A. Maclean, Magistrate, Chingleput.  
 No. 27. Mr. J. Dent, Magistrate, Southern Division of Arcot.  
 No. 28 to 30. Copies of decrees and judgments in criminal cases forwarded by the Judge of Chingleput.

## SOUTHERN DIVISION.

- No. 31. Provincial Court.  
 No. 32. Mr. G. S. Hooper, Judge, Madura.  
 No. 33. Mr. T. Pendergast, Assistant Judge, Auxiliary Court, Tinnevely.  
 No. 34. Mr. F. M. Lewin, Judge, Combaconum, (Tanjore.)  
 No. 35. Mr. J. D. Bourdillon, Acting Assistant Judge, Auxiliary Court, Coimbatore.  
 No. 36. Mr. J. Blackburne, Magistrate, Madura.  
 No. 37. Mr. J. Bishop, Joint Magistrate, Tinnevely.  
 No. 38. Mr. H. M. Blair, Magistrate, Trichinopoly.  
 No. 39. Mr. N. W. Kindersley, Magistrate, Tanjore.  
 No. 40. Mr. John Orr, Magistrate, Salem.  
 No. 41. Mr. W. C. Ogilvie, Joint Magistrate, Salem.  
 No. 42. Mr. W. Elliot, Assistant Magistrate, Salem.  
 No. 43. Mr. G. D. Drury, Magistrate, Coimbatore.  
 No. 44. Mr. T. A. Anstruther, Joint Magistrate, Ditto.  
 No. 45 to 53. Copies of sundry decrees referred to in Report of the Provincial Court.

## WESTERN DIVISION.

*Reports of the Judges of the Provincial Court and Subordinate Judges and Magistrates, in answer to a letter from the Deputy Register to the Fonjdaree Udalut, dated 3rd March, 1826.*

- No. 54. Provincial Court.  
 No. 55. Mr. J. Vaughan, Judge of Canara.  
 No. 56. Mr. F. Holland, Judge of Malabar.  
 No. 57. Mr. J. Babington, Magistrate of Canara.  
 No. 58. Mr. W. Sheffield, Magistrate of Malabar.

*Answers of the Judges of the Provincial Court and Subordinate Judges, and Magistrates, to the letter from the Law Commission, dated 10th October, 1835.*

- No. 59. Provincial Court.  
 No. 60. Mr. C. R. Cotton, Magistrate of Canara.  
 No. 61. Mr. F. Clementson, Magistrate of Malabar.  
 No. 62. Mr. E. P. Thompson, Judge of Canara.  
 No. 63. Mr. R. Nelson, Judge of Malabar.  
 No. 64. Mr. T. L. Strange, Assistant Judge of the Auxiliary Court, Malabar.  
 No. 65 to 93. Abstracts of Decrees in suits concerning slaves and documents recognized in Civil causes, used for transferring slaves.  
 No. 94. Syud Zeca-uddin, Native Judge, Canara.  
 No. 95. Shanteya, Ditto Ditto, Honore, Ditto.  
 No. 96. Pundit Soobramany Shastri, Provincial Court.  
 No. 97. Sherishtadar and Malabar Munshi, Ditto Ditto.

## APPENDIX IX.

## MADRAS.

*From the Secretary to the Indian Law Commission, to the Register of the Sudr and Foujdaree Udalut, Madras, dated 10th October, 1835.*

No.

The Indian Law Commissioners having under their consideration, as connected with the preparation of a Criminal Code, the system of slavery prevailing in India, I am directed to request that the Courts of Sudr and Foujdaree Udalut will favor them with information on the following points.

1st. What are the legal rights of masters over their slaves with regard both to their persons and property which are practically recognized by the Company's Courts and Magistrates under the Madras Presidency?

2d. And, as more immediately connected with the Criminal Code,—to what extent is it the practice of the Courts and Magistrates to recognize the relation of master and slave, as justifying acts, which otherwise would be punishable, or as constituting a ground for mitigation of the punishment? What protection are they in the habit of extending to slaves on complaints preferred by them of cruelty or hard usage by their masters? And how far do they continue to Mussulman slaves the indulgences which in criminal matters are granted them by the Mahomedan Law?

3rd. Whether there are any cases in which the Courts and Magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters?

With the exception of,—Regulation II. 1826, which merely rescinds, as being unnecessary and inconsistent with the Act of the 51 Geo. III. Cap. 23, a Clause in a former Regulation prohibiting under a specific penalty the exportation of slaves from Malabar,—Clause 2, Sec. 15, Regulation VII. 1802,—and Section 15, Regulation VIII. 1802, annulling the exemption from capital punishment in cases of murder where the person murdered is a slave,—the Commissioners do not observe in the Madras Code of Regulations any specific provision on the subject; and they are therefore desirous of being informed, by what law or principle the Civil and Criminal Courts and the Magistrates have regulated their proceedings in cases of the nature indicated in the preceding enquiries.

If the rule contained in Clause 1st, Section 18, Regulation III. 1802, for observing the Mahomedan and Hindoo laws in suits regarding succession, inheritance, marriage, caste, and all religious usages and institutions, has been considered to embrace cases of slavery though not mentioned in it, and the Courts have guided themselves accordingly,—the Commissioners would wish to know what course would be pursued in cases, where the claimant was a Mussulman, and the party claimed as the slave, a Hindoo; and when according to the Hindoo law the slavery would be legal, but according to the Mahomedan law illegal; and how, a case the conditions of which were the converse of the above would be dealt with. Also, slavery not being sanctioned by any system of law which is recognized and administered by the British Government, except the Mahomedan and Hindoo laws,—they are desirous of being informed whether the Courts would admit and enforce any claim to property, possession, or service of a slave, except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant, and if so, on what specific law or principle the Courts would ground their proceedings. The Commissioners are aware, that very different kinds of slavery exist in different parts of the Madras Territories, and they are desirous of obtaining the information now applied for with respect to all, but especially in regard to the slaves in Malabar.

No. 2. *Register of the Sudr and Foujdaree Udalut, Madras, in reply to the Secretary of the Indian Law Commission.*

10th September, 1836.

I am directed by the Judges of the Courts of Sudr and Foujdaree Udalut to acknowledge the receipt of your letter dated the 10th October, 1835, requesting information on certain points connected with the system of slavery in India.

The first point on which information is required is, as to

“What are the legal rights of masters over their slaves, with regard both to their persons and property, which are practically recognized by the Company’s Courts and Magistrates under the Madras Presidency?”

Sic in original.

The right of the master to sell or mortgage his Hindoo *agrestic* slave, with or without the lands to which they are attached, appears to be,\* have been recognized generally on the Western Coast. But in the rest of the Provinces under the Madras Government, where *agrestic* slavery exists, it is believed, that the transfer of such slaves *separately* from the land, is contrary to local usage, and not generally acknowledged by the Courts or the Officers of Government,—though in one instance it seems to have occurred in Tinnevely: and it appears equally clear, that slaves are every where capable of acquiring property independent of their masters, though they possess none in their own offspring who belong to their masters.

Secondly, the Law Commissioners require to be informed “To what extent, is it the practice of the Courts and Magistrates to recognize the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment; what protection are they in the habit of extending to slaves, on complaints preferred by them of cruelty or

“hard usage by their masters ; and how far do they continue to Mussulman slaves the “indulgences which in criminal matters were granted them by the Mahomedan law.”

It is not the practice of the Courts, to make any distinction whatever in cases which come before them. The Magistrate may under the Circular Order of this Court of the 27th November 1820, copy of which is understood to be with the Indian Law Commission, recognize the right of a master to inflict *Tazeer* on his slave in certain cases therein specified ; though in practice it would appear that no distinction is made. Such cases, whether before the Courts or Magistracy, appear to have been of very rare occurrence.

And in reply to the third question, the Judges would observe, that neither the Magistrates nor Criminal Courts would in any case, contemplated therein, coming before them, afford less protection to slaves, than to free persons.

In the 2d paragraph of your letter it is observed, that “with the exception of—“Regulation II. 1826, which merely rescinds as being unnecessary and inconsistent “with the Act of the 51 Geo. III. Cap. 23, a clause in a former Regulation “prohibiting under a specific penalty the exportation of slaves from Malabar,—“Clause 2, Section 15, Regulation VII. 1802,—and Section 15, Regulation VIII. “1802, annulling the exemption from capital punishment, in cases of murder, “where the person murdered is a slave,—the Commissioners do not observe in the “Madras Code of Regulations any specific provision on the subject, and they are “therefore desirous of being informed, by what law or principle the Civil and “Criminal Courts and the Magistrates have regulated their proceedings in cases of “the nature indicated in the preceding enquiries.”

The *Criminal* Courts and the Magistracy have had for their guidance since 1820, the Circular Order of this Court under date the 27th of November of that year before referred to.

The Civil Courts have been guided in their decisions by the local customs of the country ; and there is no enactment other than Section 17, Regulation II. of 1802 available as a rule in such cases.

And with reference to the question as to—“what course would be pursued” by the Courts “in cases where the claimant was a Mussulman, and the party “claimed as the slave a Hindoo ; and when according to the Hindoo law the “slavery would be legal, but according to the Mahomedan law illegal ; and how a “case, the conditions of which were the converse of the above would be dealt “with?”—the Court would observe, that as neither of the questions stated has been judicially determined by this Court, the Judges are not prepared to state how it would be dealt with. It is probable, that local custom would be taken into consideration in deciding either question.

With respect also to the question—“whether the Courts would admit and “enforce any claim to property, possession, or service of a slave, except on behalf “of a Mussulman or Hindoo claimant, and against any other than a Mussulman or “Hindoo dependant, and if so, on what specific law or principle the Courts would “ground their proceedings,”—there are no decisions of the Courts to elucidate the question ; but from the concluding paragraph of the letter from the Assistant Judge of Tellicherry, dated the 6th instant, and its enclosures, it will be perceived, that the Government in former days, were both the sellers and purchasers of slaves in the Province of Malabar.

In order that the Indian Law Commissioners may have before them every information connected with the system of slavery prevailing in the provinces

subject to this Presidency,—the Provincial Courts were directed to call upon the several Zillah Assistants and Native Judges, to submit copies of any final decrees, whereby property in slaves has been recognized or rejected, or which determine any question respecting slavery, together with all information in their power, on the various points enumerated in your letter of the 10th October last: and copies of their replies, and of such decrees on the subject as have been forwarded to this office, I am directed to transmit to you for the purpose of being laid before the Indian Law Commission.

The Records of the Sudr and Foujdaree Udalut do not contain any information on the several points noticed in your letter which is not contained in these returns, and in the papers on slavery in India printed by order of the House of Commons in 1828,—copy of which the Court conclude is already in possession of the Indian Law Commissioners.

The Judges however direct me to transmit to you, together with these returns, a copy of the reports received in this office on 10th December 1826, from the Criminal Judges and Magistrates of Canara\* and Malabar on the system of slavery prevailing in those Provinces, because it is expressly quoted by the Acting Judge of Canara as containing information which is *therefore* not repeated by him on the present occasion.

The Acting Judge of this Court, whose attention has been specially directed to the consideration of slavery in India, begs to refer for his sentiments on this subject to the ten enactments in modification of it, which he continues to advocate,—as recapitulated in para. 17 of his reply to the queries of the India Board in 1832, given at page 576 to the Appendix in the Public Department to the report of the Select Committee of the House of Commons in 1832 on India affairs; which no doubt is in the possession of the Indian Law Commission.

## NORTHERN DIVISION.

### RETURNS OF THE JUDGES OF THE PROVINCIAL COURT, SUBORDINATE JUDGES AND MAGISTRATES.

No. 3.

#### *Return by the Provincial Court.*

MASULIPATAN,  
10th March, 1836,

4. The Judges of the Sudr and Foujdaree Udalut will understand from the papers now placed before them that in the provinces subject to the jurisdiction of this Court, slavery is but a name, and that the law is available to such as by usage fall under its denomination, in common, and in equal degree, as to all other classes.

5. They will also understand that neither decree nor document has been met with, calculated in any wise to cast a doubt on the perfect claim to freedom possessed by individuals choosing to adhere to a condition which subjects them to the appellation of slaves, and but one opinion exists among the officers whose returns are now submitted.

\* See No. 62, *infra*.

6. Slavery in the Provinces subject to the jurisdiction of this Court, may be considered a voluntary submission to the loss of liberty for the assurance of a certain but undefined subsistence comprehended in the general term livelihood. It is an irregular system of servitude involving no loss of social rights, nor exposing the individual within its denomination to any other restraint than ordinary service imposes,—where the agreement between the party who serves, and him who is served is more clearly defined,—or rather where an individual sets a fixed price on his labor.

7. The Court have consulted its own records and met with a decree in which a girl is sued for (*in propria persona*)—the suit arising out of a sale by the mother. The girl is sued for under the denomination of slave, and for the recovery of certain *joys*, which it is alleged she carried off from the house of the plaintiff, who had purchased her for the purpose of instructing her, and profiting by her as a dancing girl. The suit, being directed against the girl, is of itself a virtual denial of her possessing that character. The Court refused to investigate whether the girl had been bought on the grounds, that her mother had no right to sell in the case. The decree does not bear on the general question of slavery and therefore is not forwarded.

8. The Court refrain from discussing the subject before them at greater length, as they think the doing so would be profitless.

*E. Newberry, Acting Assistant Judge Auxiliary Court, Masulipatam.* No. 4.

With the exception of a few domestic slaves maintained in the houses of some of the richer Mussulmans in this town, I am not aware of the existence of any slavery in this part of the country. Even these can scarcely be called slaves as they are never sold, and are merely domestic servants without pay. There is no Civil Decree on this subject in the records of this Court.

11th February, 1836.

In the year 1833, one Ruzza Mahammud was tried and sentenced by the Court of Foudaree Udalt, to three years hard labor without irons, for having purchased, or otherwise procured children for the purposes of slavery,—and this is, I believe, the only case of this nature that has been tried in this Court.

*J. Rohde, Acting Assistant Judge Auxiliary Court, Vizagapatam.* No. 5.

I beg to state that, my experience does not permit me to state any instance in which the system of slavery has been recognized: on the contrary though I cannot quote the particular instances, I remember, that in some cases, where the complainant had purchased children during the famine, and had complained to the Police of their having absconded, the right of the master was not acknowledged by the Magistrates,—and though I have made every enquiry I can hear of no one instance of the relation between master and slave having been brought before this Court, or that any distinction is made in a Criminal Court between slaves and other subjects.

18th February, 1836.

See page

No. 6. *C. Dumergue, Head Assistant Magistrate in charge, Rajahmundry.*

20th February, 1836.

2. The term "slavery," cannot be applied, in the sense contemplated by the Commissioners, to the service performed by those persons in this district usually denominated "slaves." It exists simply in the designation. The rights of this class of people both as to their persons and property are recognized by the Magistracy equally with those of all others living under the laws. Their servitude is perfectly voluntary and cannot be coerced beyond the limitation of regular service with impunity. This applies equally to all descriptions of slaves in this district, Hindoos or otherwise.

3. It may be here remarked, that the slaves form a distinct class by themselves. They cannot be admitted by marriage into any caste without conveying a stigma of dishonor upon the family with which they become connected,—owing to their degraded state as the offspring of notorious prostitution among themselves.

4. The condition of the men is however by no means fixed or stationary. In some Zemindaries and estates, particularly in the Zillah of Guntoor, instances may be found of several, who by their fidelity and merit have been advanced to situations of consideration and respectability as killadars, and superintendents of villages.

No. 7. *R. Grant, Judge and Criminal Judge, Nellore.*

22d February, 1836.

2. I beg leave to state in reply, that no decrees on the subject of slavery are to be found on the records of this Court, and as it appears from all the enquiries I have made that no slavery of any description has existed in this Zillah, it is out of my power to furnish any information upon the subject required.

3. I understand that some few Mahomedans, in this part of the country, have persons residing in their houses as family domestics who were formerly purchased by them from their parents when young. But as these domestics are at liberty to leave the service of their masters whenever they think proper, they cannot be considered in the light of slaves.

No. 8. *T. H. Crozier, Acting Head Assistant Magistrate in charge, Masulipatam.*

23rd February, 1836.

In reply to your communication received in the beginning of February, 1836, I have the honor to inform you that slavery in the usual acceptation of the word does not exist in this district. It would appear that there are three descriptions of persons who commonly fall under the designation of slaves, but the term does not apply to them in the sense, in which it is understood in the other parts of the world.

1st Class are attached to Zemindars, &c. These slaves are called (the males) Khūsauloo, and (the females) Danseeloo.

2d Class are attached to cultivators. These are called Paulailoo.

3rd Class are in the service of Mussulmans; the males are called "Goolams" and the females "Baundees."

2. To these persons however, although they live in a state of perpetual servitude to their masters, the term of hereditary servants might be more properly applied, as they are neither saleable, nor is the authority of the master legally recognized.

3. I believe the following is the only case on the records of this office in which a slave or master was complainant or defendant.

4. In the year 1833, during the late famine, two Moor-men purchased some children in the frontier Talooks with the intention of taking them to the Nizam's dominions for slavery; but they were apprehended and brought to trial, and the case was committed to the Criminal Judge at Masulipatam.

*A. Freeze, Magistrate, Vizagapatam.*

No. 9.

In reply to your letter under date the 30th November, I have the honor to state, that although instances do often occur during a famine, of parents selling their children as slaves, the Magistrates of this Province do not recognize such sales as conferring any legal rights either over the persons or property of the individuals purchased. Nor do the people of the Province seem to consider that they have any real or just claim consequent to such purchases; for in various instances that have been brought before us, the purchasers have immediately consented to restore the children to their parents.

1st March, 1836.

*A. Crawley, Judge, Chicacole.*

No. 10.

I cannot find, with reference to these questions, that the legal right of masters over their slaves and property has ever been brought before the Civil or Criminal Courts of this Zillah: and I understand that the right of Mussulmans to slaves has never been recognized in this part of India.

2d March, 1836.

The right of a master over his slaves, male and female, is defined by the Hindoo Laws: but no cases respecting such right have ever been brought before the Court. In case such should occur as the law now stands, I conceive the Court must under Section XVI. Regulation II. of 1802, be entirely guided by those laws. The case of a Hindoo having a Mussulman slave or claiming such, is, I conceive, out of the question, from the nature of the Hindoo religious tenets.



No. 11.

*A. Mathison, Head Assistant Magistrate in charge, Guntoor.*

6th March, 1836.

1. I have the honor to acknowledge the receipt of your letter under date the 30th November last, and in reply beg to state that slavery in the strict sense of the word cannot be said to exist in this district; which must account for in my not forwarding specific answers to the questions proposed by the Law Commissioners.

2. The only class of individuals, whose situation at all approaches to slavery are the male and female servants attached to the Zemindars, and who are certainly designated as slaves. They have been for the most part attached to their families for several generations, and their children look forward to continuing in the same employment. Whatever might have been the case formerly, the engagement has been for many years voluntary, and can be said to exist only as long as the Zemindar is willing to pay for their subsistence; and they have no wish to change their condition. In default of either of these reasons for its continuance the connection would be most probably dissolved.

3. These individuals are certainly as fully within the protection of the law as any other class of the community: and while the fact of their being slaves would not in any way exonerate the master from punishment for any offence committed against them, no measure would be taken to enforce the right of the master to their services against their own consent.

4. Though, from my inability to discover among the records of my office any trace of such a case having ever been mooted, I am unable to speak with certainty on this point,—still, I think, it may be inferred that slavery is considered to be practically illegal in this district, and that no claim of ownership would in any way be recognized by the Magistrate: nor do I think, that it would be expected by any party that such a recognition should take place. This idea may probably have arisen from the knowledge that slavery is forbidden by our laws, and that its existence is at variance with the wishes of the Government.

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No. 12.

*J. Stevenson, Magistrate, Ganjam.*

4th March, 1836.

I have the honor, in reply to the Court's letter, and its enclosures, on the subject of the system of slavery prevailing in this district, to report that from personal experience I can afford no information. No case involving the right of master and slave has ever come before me in my official capacity.

Excepting amongst Zemindars, I believe, the several systems of slavery here existing, to be of the mildest nature and not likely to give cause for complaint; where disputes have arisen the Magistrate has never, as far as my enquiries go, recognized the master's right.

The Zemindars exert over their slaves the most despotic power, not because it is allowed by, but because they are out of the reach of the law. In one or two instances where slaves have succeeded in escaping out of the Zemindars' territories, they have been protected, and the right of the Rajahs to the person of the slave, denied.

*T. V. Stonehouse, Magistrate, Nellore.*

No. 13.

States, that he has no information to afford on the subject,—there being no system of slavery prevailing in his Collectorate. 16th March, 1836.

*H. D. Phillips, Acting Assistant Judge, Auxiliary Court, Guntoor.*

No. 14.

States, that his enquiries lead him to believe that slavery is not known in this Zillah. 19th March, 1836.

*J. Rohde, Acting Register in Charge of the Zillah Court,  
at Rajahmundry.*

No. 15.

I have the honor, in reply to your letter of the 29th November 1835, to state that I am unable to add any thing to the information contained in my letter on the same subject which I had the honor to address to you while in charge of the Auxiliary Court at Vizagapatam,—further than, that I am informed, that the same rule of practice exists in this, as in that Court, on the subject of the rights of masters and slaves, and also with regard to the relations of the latter in respect to the law.

21st March, 1836.

I have received information of only one case, which has in any way been brought to the notice of the Court for many years, where it appears, the Magistrate in charge, Mr. Cazalet, admitted a Rauzeenamah; but it does not appear that any civil suit has ever been brought.

## CENTRE DIVISION.

## PROVINCIAL COURT.

No. 16.

2. The Zillah Judge of Chittoor states, that there are no materials whatever in his office to throw any light on the subject, or which will enable the higher Court to decide by what law or principle the Civil or Criminal Courts have regulated their proceedings in cases of the nature under consideration,—and explains, that as slavery is not sanctioned by any system of law which is recognized and administered by the British Government excepting the Mahomedan and Hindoo law, his Court would dismiss all claims made by a Mussulman to the compulsory or involuntary services of a Hindoo, such being illegal according to the Mahomedan law, and that the Criminal Court has no power by which under any circumstances, it could enforce

4th May, 1836.

obedience on the part of a slave on the ground, that imprisonment would effectually for the time, deprive the complainant of the labor of the person complained against, and that the Court would not sanction the master's resorting to corporal punishment to obtain obedience, while the Civil Court would not recognize any right to the property of a slave grounded merely upon his being the slave of the complainant.

3. The Zillah Judge of Cuddapah, and Native Judge of Cumbum state, that no information on the subject of slavery can be gleaned from the Records of their Courts.

4. The officiating Judge of Bellary declares, that his records are likewise barren of information on the subject of slavery, but explains the course which he would pursue in the cases stated in the Secretary's letter.

5. The Acting Judge of Chingleput states, that the cultivators of the Vellala caste in his district, possess Pariah slaves, who serve them from generation to generation, and that they are kept in a very abject and low condition; but that complaints of ill treatment are seldom if ever preferred by slaves against their masters, although such complaints are cognizable by the Criminal Courts under the Circular Order of the Foujdaree Udalt Court of 27th November, 1820.

6. He also explains,—the respective ownership of the master and father in the progeny of a female slave married to a freeman,—the manner in which children of both sexes generally become enslaved,—and the right of their owners to the profits of their labor; and has submitted copies\* of two decrees, and two decisions of the Criminal Court of Chingleput in cases of contested claims to slaves which are herewith forwarded.

7. The Assistant Judge in the Zillah of Cuddalore declares his inability to afford the information required by the Higher Court, no cases of slavery having ever been brought before his Court.

8. The Acting Magistrate of the Northern Division of Arcot states, that it is quite out of his power to reply to the several points relative to the system of slavery in his district, no case of that description having ever been brought before him, or appearing from a reference to the records in his Cutcherry to have ever occurred in any part of the country under his control.

9. The Acting Magistrate of Cuddapah states that the records in his office do not contain any materials to enable him to give any information respecting slavery.

10. The Magistrate in the Zillah of Bellary, reports that after examination of his records, he has not been able to discover that any case connected with slavery has ever been brought before his office.

11. The Magistrate of Chingleput states,—that the systematic slavery does not prevail in his district,—but that the people, however, purchase individuals, generally of the Pariah caste, for the purpose of assisting them in carrying on their agriculture, and maintain them at their own expense, mortgaging their services, selling and giving them away according to their necessities or pleasure,—a practice he observes admitted and recognized both by the Courts and Magistrates,—that no instances in which slaves have been punished by their masters by virtue of their supposed right over them, or where such a proceeding has been admitted by the Courts as justifiable, can be discovered—but, that when the slaves are found to be remiss or negligent in their labors, the master contents himself with threatening, cautioning or suspending the payment of their wages,—that no complaints of cruelty or any other maltreatment have ever been brought by the slaves against their masters before the Courts or Magistrates, nor are there any instances in which cases

of that sort have been looked upon differently, than those preferred by other individuals, nor do the masters of slaves consider themselves entitled to any mitigation of punishment to which they have subjected themselves by ill using their slaves; that all complaints preferred by Mussulman slaves against their masters on account of cruelty or hard usage, would be disposed of under the Mahomedan law without shewing any leniency to the latter,—and that cases brought by either class of slaves are enquired into and disposed of by the authorities according to the laws peculiar to each class.

12. The Magistrate of the Southern Division of Arcot observes;—that two species of slavery, one *agricultural* and the other *domestic*, prevail, the former to a considerable extent among Hindoos in South Arcot, but more particularly in the two Southern Talooks bordering on Tanjore, and the latter among Mussulmans in the large towns of Cuddalore, Portonova, and Chellemburam, especially in Portonova, where the population is nearly two-thirds Mahomedan, whose domestics are generally of this description;—but in both these cases, though the parties are termed slaves, their labor may be said to be voluntary;—that the only cases that have been brought before him, have referred, 1st, to the deduction of parties against their will—2d, to one ryot having enticed the agricultural slave of another from his land, and 3rd, to the purchase and forcible detention of children, male and female; that in the first case upon the detention being proved, the parties have been instantly set free; but if the slave had incurred any pecuniary obligation, it has been the practice to ascertain by means of a Panchayet what period he should have to work out his obligation, although it is apprehended were the complainant to insist upon his right to be set at liberty immediately, that the Magistrate must concede it, leaving the owner to recover the sum he had paid by civil process;—that in the second cases when no pecuniary obligation has existed, the slave had either been declared at liberty, or an endeavour was made to settle the cases amicably according to the custom of the country;—and that in the third cases which happen principally in seasons of famine and distress, no child, male or female, is permitted to be retained by the purchaser, if the parents appear to claim and can prove their relationship, or if the child desire to return to its parents. In conclusion he observes, that his practice is to make no distinction in a case of this kind between slave and freemen, and that on proof thereof, of cruelty by a master towards his slave, he would be visited with the same degree of punishment as if it had been committed on a servant wholly free.

13. In reply to the 1st query in the letter from the Secretary to the Indian Law Commission, the Judges beg to state, that they are of opinion, that, where Puller or Pariah slaves attached to the soil from very remote periods exist under the Madras Presidency, the Criminal Courts and Magistracy have occasionally, though very rarely, interfered upon complaints brought by masters against these slaves for having struck work without any sufficient reasonable cause for so doing, and compelled them to resume their work; but few, if any, of the Puller slaves, which is the most degraded and miserable class in Southern India, are to be found within the centre division.

14. These agricultural slaves are sold and mortgaged sometimes without, but generally with, the land: and it sometimes happens, that the husband and wife and children belong to different masters. But no legal rights of the owners either to their persons or property beyond those of masters over their servants, appear to have been recognized by the Courts or Magistrates.

15. The Judges are well aware that it frequently happens in seasons of dearth and famine, that persons sell themselves, and parents their children, in order to escape starvation and preserve the lives of their offspring. But these persons—do not thereby become slaves in the strict sense of the term—nor do they entail bondage on their children,—and are only bound by the gentle tie of gratitude, the purchasers seldom, if ever, claiming even compensation when such ingrates desert them.

16. In reply to the 2d query, they beg to state, that it is practically, almost a mooted question in their division; but, that they are of opinion, that all complaints of masters against slaves, or vice versa, would be treated by the Criminal Courts and Magistrates in their division in the same manner, as those between master and servant, or master and apprentice, and consequently that their relation of master and slave would not be recognized or considered in deciding upon such complaints.

17. And in reply to the 3rd query, they have no hesitation in declaring, that with exception of the distinction explained in their reply to the 1st query, they cannot conceive it possible, that there can be any case, in which equal protection in person and property will not be afforded to slaves so called, as to all other Native subjects of the Government,—slavery although existing in the territories under the Madras Presidency to the extent above described, never having been distinctly recognized or sanctioned by our Government either in law or practice, and being directly repugnant to the first principles of British law and justice and natural justice.

No. 17.

*F. Lascelles, Judge, Chittoor.*

12th February, 1836.

The Zillah Judge has the honor respectfully to state that after a careful examination of the records of his office he has not been able to discover any civil decrees, whereby property in slaves has been recognized or rejected by the Court, or which have determined any question respecting to slavery. It, therefore, does not appear that the Civil Court has ever practically recognized any legal rights of masters over slaves with regard either to their persons or property. Nor do the proceedings on the Criminal side of the Court furnish any information relative to the practice in cases, where a slave is a party concerned. As therefore, no materials whatever exist in this office to enable the Zillah Judge to throw any light on the subject, or which will enable the higher Court to decide by what law or principle the Civil or Criminal Courts have regulated their proceedings in cases of the nature under consideration, it only remains for the Judge to explain what course would be pursued by the Court in cases,—where a claimant was a Mussulman, and the party claimed as the slave, a Hindoo, when according to the Hindoo Law the slavery would be legal, but according to the Mahomedan Law, illegal;—and also how a case, the conditions of which were the converse of the above, would be dealt with.

2. As slavery is not sanctioned by any system of law which is recognized and administered by the British Government except the Mahomedan and Hindoo Law, the Court would dismiss all claims made by a Mussulman to the compulsory or involuntary services of a Hindoo, such being illegal according to Mahomedan Law.

The Court has no power by which, under any circumstance, it could enforce obedience on the part of a slave. Imprisonment would effectually for the time, deprive the complainant of the labor of the individual complained against, and this would be sufficient of itself to prevent any action being brought. Necessity would therefore oblige the master to resort to corporal punishment to obtain obedience, and this the Court would not sanction.

3. The next point is, whether the Civil Court would admit and enforce any claim to property, possession, or service of a slave, except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant, and if so, on what specific law or principle the Court would ground its proceedings. The Court would not recognize any right which was made against the property of a slave which was grounded merely upon his being the slave of the complainant, and the Judge has already shown that the Criminal Court does not possess under any circumstance the power of securing obedience to the services of a slave.

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*P. H. Strombom, Judge, Cuddapah.*

No. 18.

No acts of slavery have been brought to the notice of the Court, or have formed part of any suit filed before it. 28th December, 1835.

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*Juckeryooden Mahammud Khan, Native Judge, Zillah Cuddapah, at Cumbum.*

No. 19.

No cause connected with slavery has ever come before him in the Civil or Criminal Department. 23rd January, 1836.

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*A. E. Angelo, Judge, Bellary.*

No. 20.

No materials whatever exist in this department for forming any judgment or throwing any light upon any part of the subject under review. It only remains therefore to state the mode of proceeding which he would adopt under either of the hypothetical cases in question. It may be clearer to premise that he would not deem the term slavery applicable to any case, in which the bondsman has sold his services on whatever terms to a master. Such would be treated as a sort of apprenticeship to be held binding—provided it involved no cruel or immoral condition. But the claim—of a Mussulman to the services of a Hindoo slave, that is, of one who had come under his bondage without being personally consulted,—and vice versa of a Hindoo to a Mussulman slave,—would be at once rejected; as it is impossible that the legislators of one race of people could have provided for

bondage to another race,—and, as regards people of all other countries,—the claim of the master to the involuntary and not self conditioned services of a bondsmen, would be dismissed as unsupported by the enactments and inconsistent with the principles of the power now in rule.

No. 21.

## *II. Bushby, Acting Judge, Chingleput.*

The Acting Judge has the honor to forward copies of the only decrees\* and cases to be found on the records of this office either on the Civil or Criminal file.

2. With reference to the various points enumerated in the letter from the Secretary to the Indian Law Commissioners, dated 10th October last, the Acting Judge will confine his observations to the extent of slavery carried on in this Zillah.

26th December, 1835.

3. Cultivators of the Vellala caste in this Zillah keep Pariah slaves, and they by reason of this bondage are obliged to obey whatever orders they may receive from their masters, provided such orders are not repugnant to law, justice, and reason.

4. The masters merely feed and clothe them for the work performed by the slaves, and they generally are kept in a very abject and low condition.

5. The master considers himself justified in inflicting moderate chastisement upon his slave for disobedience of orders; and it seldom, if ever, occurs of a slave complaining to the constituted authorities of the ill-treatment he may receive from his master. But the Courts do not recognize his right to punish the slave in an unlawful manner, without any just or good cause of provocation.

6. Under the Mahomedan Law, a master is competent to inflict correction (Tazeer) upon his own slave. If therefore, the master should in a lawful manner correct his slave for committing an act, by which Tazeer is incurred, he is not liable to punishment; but if a master should chastise his slave without his having been guilty of any offence incurring Tazeer, or in the event of the slave having committed such an offence, if the master should not correct him in a lawful manner, but treat him with violence and cruelty,—the master would be liable to Tazeer. Vide extract from the proceedings of the Fouzdarree Adawlut dated 27th November 1820.

7. Slaves in this Zillah serve the master from one generation to another.

8. If a female slave marries a free person and has issue,—the master can claim the female progeny and the husband the male progeny, and the husband cannot carry his wife away without the consent of the master. And when it happens that the husband who is a free person consents to become also slave to the master, the master can in that case claim the services of both the male and female progeny.

9. If the master should turn poor, the slaves can be employed to work for hire in order to procure the common necessaries of life for their masters—and the earnings of the slave are made available for the use of the masters. And so it is the case with dancing girls purchased for the use of the Pagoda or for other Native ceremonies. The purchasers derive the whole benefit of the earnings of the purchased.

10. Children are generally sold as slaves by poor parents whenever a famine happens.

***W. Morehead, Assistant Judge and Joint Criminal Judge,  
Auxiliary Court, Cuddalore,***

No. 22.

States, that regarding slavery, no Civil and Criminal cases have ever been filed in his Court. He is therefore unable to submit copies of decrees in cases of this nature, nor can he furnish any information on the various points enumerated in the copy of the letter from the Secretary to the Indian Law Commission.

16th January, 1836.

***G. M. Ogilvie, Acting Magistrate, Northern Division, Arcot,***

States that it is quite out of his power to reply to the several points relative to the system of slavery prevailing in this district as called for by the Judges of the Centre Provincial Court. Slavery not existing in any part of the Northern Division of Arcot to the best of his belief, nor is there on record any decision by the Magistrates of this Zillah, or has there ever come before him, a case, to determine any question respecting slavery.

15th April, 1836.

***G. J. Casamajor, Acting Magistrate, Cuddapah.***

No. 24.

There are Native officers now in the Cutcherry who have known all the business of the Magistrate's office at different periods almost from its first establishment: and they all say after consulting and referring to the records, that they contain nothing upon the subject.

12th March, 1836.

***F. W. Robertson, Magistrate, Bellary.***

No. 25.

After an examination of his records, he has not been able to discover, that any case connected with slavery has ever been brought before the Magistrate.

3rd March, 1836.

***A. Maclean, Magistrate, Chingleput.***

No. 26.

2. Systematic slavery does not prevail in the district of Chingleput. People however, are in the habit of purchasing individuals and maintaining them at their own expense. When a person thus purchased abandons his master against the latter's consent, the former is considered to have a priority of claim to any property which he may have. Masters also mortgage the services of, sell, and give away, their slaves, according to their necessities or pleasure: and the practice of doing so is admitted and recognized by the Courts and Magistrates.

21st April, 1836.



3. No instance in which slaves have been punished by their masters by virtue of their supposed right over them, or where such a proceeding has been admitted by the Courts as justifiable, is forthcoming.

4. Slaves are generally of the Pariah caste, and when found remiss or negligent in their agricultural labors, the master contents himself with threatening, cautioning, or suspending the payment of their wages.

5. No cases of cruelty, wounding, flogging, putting in the stocks, &c. are ever brought by the slaves against their masters before the Courts or Magistrates; nor are there any instances, in which, cases of this sort have been looked upon differently than those preferred by other individuals. Masters of slaves do not consider themselves entitled to any mitigation of punishment to which they may have subjected themselves by ill-treating their slaves.

6. All complaints preferred by Mussulmany slaves against their masters on account of cruelty or hard usage, are disposed of under the Mahomedan Law. No leniency as far as the Magistrate has been informed, is ever shewn to the latter.

7. Cases brought by either class of slaves are enquired into and disposed of by the authorities according to the laws peculiar to each class. Few Hindoo slaves are employed under Mahomedan masters; and those who are, are generally converted to the Mahomedan religion.

8. No decrees are procurable in this district regarding the disposal of cases of slavery.

### *J. Dent, Magistrate, Southern Division, Arcot.*

No. 27.

28th February, 1836.

Slavery, in the sense in which it is understood, as applying to the servitude in our Colonies, is unknown in South Arcot; because neither the Regulations of Government, nor the practice of the Magistrate, recognize the right of any individual to detain another in his service contrary to his will.

There are however, two species of slavery, if such they can be called,—one *Agricultural*, where the cultivators, are in a manner attached to the soil, and this is chiefly among Hindoos,—the other *Domestic*, where the slaves act as household servants, this is chiefly confined to Mussulmans. But in both these cases, though the parties are termed slaves, their labor may be said to be voluntary; as they are at liberty to quit their service at pleasure, provided they are *under no pecuniary obligation* to their master.

Since the Magistrate's appointment to the Southern Division of Arcot, the only cases that have been brought before him, have referred,—1st, to the detention of parties against their will,—2d, to one ryot having enticed the Agricultural slaves of another from his land,—and 3d, to the purchase and forcible detention of children, male and female.

In the first cases, upon the forcible detention being proved, and no pecuniary obligation existing, the parties have been instantly set free with full liberty to go where they pleased. But in some instances it has occurred, that the slave had incurred a heavy pecuniary obligation in the shape of an advance for marriage or other ceremony, &c.: and when this has been made out, it has been the practice to ascertain by means of a Panchayet what period the slave should serve to work out his obligation. Although it is apprehended, were the complainant to insist upon

his right to be set at liberty unconditionally, that the Magistrate must concede, leaving the owner to recover his advance by Civil process.

In the second cases, when no pecuniary obligation has existed, the slave has either been declared at liberty to serve whomever he pleased; or an endeavour was made to settle the cases amicably according to the custom of the country; a course that has been generally successful.

In the third cases, no child, male or female, having been purchased, is permitted to be retained by the purchaser, if the parents of the child appear to claim and can prove their relationship, or if the child desire to return to its parents.

Agricultural slavery of the description here described, it is believed, prevails to a considerable extent in South Arcot; but more particularly in the two Southern Talooks of Munnargoody and Chellumbrum, bordering on Tanjore. Domestic slavery is confined almost entirely to Mussulmans, whose domestics, male and female, are generally of this description. But it is chiefly to be found in the large towns of Cuddalore, Portonovo, and Chellumbrum, particularly Portonovo; where the population is nearly two-thirds Mussulman, (Lubbies). Regarding female slavery, little is known, they are commonly domestics, sometimes concubines; and they may not have the facility to complain that the males have. But it is not believed that ill-treatment is exercised towards them.

The practice of purchasing children, it is believed, is not carried to any great extent, except in seasons of famine and distress.

Such, then, is a general description of the species of slavery prevailing in the Southern Division of Arcot; and though such is tolerated and winked at, as being the custom of the country, neither the Regulations of the Government, nor the practice of the Magistrate *recognize any rights* of the masters of slaves over the property or persons of such slaves, different from what they have over any other of their servants who are absolutely free. A complaint, preferred before the Magistrate, of cruelty by a master towards his slave, would be visited with the same degree of punishment as if it had been committed on a servant wholly free. The practice of the Magistrate makes no distinction in a case of this kind between slave and freeman: and the circular order of the Foujdaree Udalt referred to in the margin, especially provides for the punishment of ill-treatment by the master of slaves.

27th November, 1820.

Neither the Regulations, nor the practice of the Magistrate's Court, recognize any distinction, whether an injury be committed upon a slave by his own master, or by an indifferent person. By *injury*, is here meant some *grievous harm*, in opposition to that wholesome correction which a master of slaves is acknowledged to have the right to exercise over them, as a master over his servants.

The Magistrate having no jurisdiction in Civil cases, he cannot state whether the Courts would admit a slave to sue on the same terms as an undisputed free person: but he believes that no distinction whatever would be made.

Were a Mussulman to prefer a claim before the Magistrate to a slave that was a Hindoo by birth,—or a Hindoo prefer a claim to a slave that was a Mahomedan by birth,—the same decision would be given in both cases, viz. that neither party had any recognized *right* to the slave according to the Regulations, and the case would be dismissed, and the slave permitted to go where he pleased.

The Magistrate in this return has endeavoured to state as briefly as possible, what the practice is, regarding the system of slavery prevailing in South Arcot; and though in some instances he has been obliged to wink at it, his endeavours have been used, as far as legitimate means were in his reach, to put a stop to it.

No. 28. *Decrees\* forwarded by the Acting Judge of Chingleput, with his Report, dated 26th December, 1835.*

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*Decree of the Register of the Zillah Court of Chingleput, dated 15th December, 1826.*

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CASE No. 45 of 1825.

The plaintiff brings this action to recover rupees six hundred and eighty-six, compensation for loss sustained by him for a period of 15 months from the 3d Audhy of Taurana to 29th Pooratausy of Parthepah, or from 16th July 1824 to 13th October 1825, at the rate of  $\frac{7}{16}$  Pagoda a day,—owing to the defendants having failed to conform to an engagement, they entered into with his grandfather Ginja Chetty, to work his boats, Cuttoomarans, and drag his nets; which they continued to do up to the day they withdrew their labors as mentioned above.

In support of the claim to the services of the defendants, the plaintiff has filed two agreements, and states, that it is customary, in every other fishing village as well as that of Wooroorcoopum near St. Thomé, where the parties reside for families in succession to work under the same employer.

As the 7th and 8th defendants, who are the sons of the sixth, named Casce Covil Yagapen, (who died during the pending of this suit) have entered into an engagement with the plaintiff, to work for him, or on failure, to pay rupees two hundred and eighty-five as their portion of the claim and costs, which they admitted before the Court,—the Court proceeds to determine how far the rest of the party sued, are to be made answerable.

The 4th and 5th defendants are connected with the prosecution as being the persons who withdrew the plaintiff's laborers: and the witnesses for the plaintiff prove, that they occasionally worked for them. But,—as this is not sufficient to show that they were the means of creating any injury to the complainant,—as the same evidence does not state precisely which of the defendants, or how long they were with them,—the Court exonerates them from this decree.

It is mentioned on behalf of the 1st, 2d and 3rd defendants,—that the plaintiff's business was never interrupted during the time he mentions,—that they are not his laborers,—and that they only mutually assist each other in their occupation as fisherman, because the 1st defendant's mother and the grandfather of the plaintiff were sister and brother,—but they were not bound to serve him. They deny any engagement to have been executed to that effect, and mention, that the one marked No. 11 was forcibly obtained.

The witnesses for the complainant depose,—that the three first defendants left the plaintiff's employ at the beginning of Audhy of Taurana, or in July, 1824, that they worked till now, sometimes with 4th and 5th defendants, but most usually on their own account,—and that thereby, the plaintiff sustains a daily loss of about 20 fanams. They also mention, that there was no undue means used to obtain the document marked No. 11; which, after noticing,—that the 1st defendant and his ancestors worked at the plaintiff's nets, &c. to that period,—conditions, that, whereas the first defendant, (by whom it was given,) “having obtained permission

of plaintiff to keep a separate net, he will cause his son Moottappun (the 2d defendant) to work at the plaintiff's large net; on failure, he will pay a penalty of twenty-four rupees to his cast people."

The other document is one, which was given to the grandfather of the plaintiff by the 1st defendant and his father, and another person, engaging—"on the receipt of 9½ Pagodas to work his boats and Cattamarans, and drag his nets; and binding not only themselves to fulfil their contract, but imposing the same obligation on their successional generations, to the end of time; if they do not act accordingly, they consent to be brought by force to their work."

It is strange that the plaintiff did not through the Magistrate compel these defendants to work in his service, but allow so many months to pass without taking any earlier steps to cause their return. But as their own witnesses declare, that they work for themselves whilst they are under an engagement to serve under the plaintiff, the Court decrees, that they shall return to the plaintiff's employ, and repay him the sum of two hundred rupees with costs, for preventing him in their absence from procuring the usual profits for his livelihood.

The Court does not intend, that this decree shall extend to any of the issue of these three defendants, because no man has any right to dispose of the service of his heirs in anticipation, or to bind them to the performance of manual labor to a particular individual, or his family, because he has himself disposed of his own services to him. The father may have this control over his sons whilst they are depending upon him for maintenance, and as in this case, the agreement was passed by the 1st defendant as the father of the 2d and 3rd they must all keep to it.

Half the costs of suit to be paid by the 3 first defendants. The other portion as agreed by 7th and 8th.

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*Decree of the Judge of Chingleput, dated 17th July, 1828.*

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CASE No. 299 of 1826.

In the plaint the plaintiffs state:—that the defendants had one share of all the three shares of Puttoor village, and the grounds and gardens attached thereto; of which share, Auroomy Pillay, the father of the 1st and 2d defendants, enjoyed a moiety, and the 3rd defendant the other moiety; that the said 3rd defendant sold his one-half of his one-third share, consisting of 16 Nunjah Cawnies, and 4 Poonjah Cawnies, ground, garden, and male and female slaves attached thereto, to Auroomy Pillay, the father of the said 1st and 2d defendants, for 25 Pagodas, on the 25th Audee, of the year Doondoobhee, 1802, and delivered over the lands under the bill of sale executed by him,—from which time, the said Auroomy Pillay enjoyed the said lands, as well as his own share, being altogether one of the shares, and died about the year Verama, 1820; that the 1st and 2d defendants subsequently enjoyed the said lands, but having occasion for money, they sold to the 1st plaintiff, garden land consisting of  $2\frac{1}{10}$  Cawnies, Poonjah Cawnies  $10\frac{11}{16}$ , and Nunjah Cawnies  $33\frac{1}{2}$ , making altogether 44 Cawnies, as well as the ground, garden, and appurtenances thereunto belonging, together with the place of residence in the village, and the place where the Pariahs reside, and nine male and female slaves, for rupees six

hundred and thirty, on the 29th Auny of the year Chittrabhanoo, 1822, and executed a bill of sale in the name of the said 1st plaintiff, received the said money, and gave an acknowledgment for the same; that the said 1st and 2d defendants likewise delivered the bill of sale executed, to their father, by the 3rd defendant, and at the same time put the Nunjah and Poonjah lands, the garden lands, and the male and female slaves into the possession of the 1st plaintiff; that having taken possession of the same, the 1st plaintiff endeavoured to carry on the cultivation for the present year, when at the request of the 2d plaintiff he sold to him the said lands for three hundred rupees on the 20th Audee of the said year, and executed to him a deed of sale and received the said amount; that he also sold the nine male and ten female slaves for three hundred and thirty rupees on the same date, and received the said amount, and executed to him a bill of sale to that effect, and delivered to the 2d plaintiff the said lands, as well as the said male and female slaves; that having taken charge of the same, the 2d plaintiff ploughed 33 Nunjah Cawnies of the said lands and was cultivating the same, when the 1st, 2d and 3rd defendants attending to the instigations of Mattoo Pannumbra Pillay lodged a fraudulent complaint with the Tahsildar of the said Tookhdy, brought a peon, and took possession of 13 Cawnies of the land, and the said male and female slaves; that the 2d plaintiff presented a complaint to the Collector who sent his Takeed, dated 30th August, 1822, to the Tahsildar, to enquire and make his report, who made his report to the Collector according to his pleasure, stating that the money had not been paid for the said bill of sale, on which the Collector directed that the lands be cultivated by the persons who had cultivated them the last year, and referred the 2d plaintiff to the Civil Court; that the 2d plaintiff paid the Teervak to the Circar on the 20 Cawnies cultivated by him and enjoyed the produce in that year; that in the month Audee of the year Swabhanoo, 1823, the said 2d plaintiff attempted to plough the said land when the defendants combined and took possession of them and cultivated the same; that in the year Taranah, 1824, when they were about to institute their suit against the defendants for the recovery of the lands and the slaves, &c. the 1st and 2d defendants satisfied them, and promised to restore the lands and the slaves mentioned in the bill of sale on the 1st Audee of the year Partewah, 1825, and also agreed to pay them (plaintiffs) 200 rupees on the same date in consequence of their having enjoyed the lands up to that period, to which effect, they (1st and 2d defendants) executed an agreement on the 26th Tye of the year Tauranah; that the defendants enjoyed the produce for the said Tauranah year, and instead of conforming to their agreement in the year Partewah they enjoyed the lands and did not restore the male and female slaves, nor pay the rupees mentioned in the agreement; that the 3d and 4th defendants continue cultivating the said lands; that the suit is in consequence instituted against all of them. The plaintiffs therefore sue to recover from the defendants the restoration of the Malgoozary, Nunjah, Poonjah, and garden land, and 2 Neva-shanums, of which the particulars are stated in the plaint, and the 19 male and female slaves, and 200 rupees agreeably to the abovementioned agreement.

In their answer, the defendants deny the correctness of the plaintiffs' claim, and the 1st defendant moreover states, that he was mad from Eswarah 1817 to Tauranah 1824, and his hands and feet were chained for one year; that he was also wandering about some days without fetters according to his pleasure; that whilst it was thus, the 2d plaintiff thinking to assume to himself the lands and male and female laborers, &c. attached to his and the other 3 defendants' one share, in addition

to the lands attached to his own two shares, and to enjoy the said village as his exclusive right, carried him (defendant) who was afflicted with insanity, to his house, about 12 o'clock at night of the 29th Aun'y of the year Chittrabhanoo, and wrote a deed of sale in the name of the 1st plaintiff, his elder sister's son, as if this defendant had sold the lands and other property in dispute, and obtained the signature of this defendant, and also his signature for the 2d defendant to the said deed, and procured it also to be witnessed by persons on friendly terms with him; that he was not aware of what the said plaintiff wrote in the said deed of sale; that the 1st or the 2d plaintiff did not pay as cash to him on account of the said deed, nor did he give his receipt for the same; that the 1st plaintiff was not in the place where the said deed of sale was written, but was then at Munnargoody; that the 2d plaintiff having ploughed some of the lands in dispute, the 3rd and the 2d defendants complained of it to Cooppoo Row, late a Tahsildar of the above Tookoody, who ordered the 2d plaintiff not to plough the said lands,—yet the 2d plaintiff again collected together about 100 laborers and 64 plough-oxen, ploughed some of the lands in dispute, on which the 2d and 3d defendants again made their complaints to the said Tahsildar who sent two peons to bring the persons before him; that the 2d plaintiff then lodged his complaint before the Collector of the said Soobah, and the 3rd defendant also made his complaint to the said gentleman, who directed the Tahsildar to enquire and report upon the case, who accordingly enquired and reported,—informing, that the deed of sale in dispute was fraudulently written, and signature obtained from this defendant when he was of unsound mind, at 12 o'clock at night: that it was not proved that money had been paid on the said deed of sale, and some other circumstances; on which the Collector directed the Tahsildar to cause the defendant to pay to the 2d plaintiff the expenses of the cultivation of such land as had been illegally ploughed and cultivated by him, and to cause the defendants to enjoy the said land with the produce thereon, and to grant a pottah in the name of this defendant; that the Tahsildar sent for the 2d plaintiff who objected to receive the expenses of the cultivation from the defendant and to restore the produce; that after the crops had suffered great damage, the said Tahsildar appointed the Circar servants, thrashed and laid the produce in heaps, and then wrote to the Collector, that the produce would not equal the payment of the Teerwah due on those lands, and that, that produce should be given to the 2d plaintiff, and the Circar Teerwah be collected from him;—on this the Collector sent his Takeed, directing him to put the produce of the said land in the possession of the 2d plaintiff and collect from him the Circar money, and to enter the sist collection, jumma-bundee, and puttah, in the name of this 1st defendant for that year, and not to allow the said plaintiff to interfere with the land in dispute for the next year, (the present one) from which time, the orders for cultivation, jumma-bundee, and puttah, &c. are entered in his (this defendant's) name, and he and the other defendants cultivate the said land.

This defendant observes,—that while the deed of sale written in the name of the 1st plaintiff was in dispute between the 2d plaintiff and the defendants, and the lands and the slaves, &c. mentioned in the said deed of sale had not fallen into the possession of the 1st plaintiff, how could the 1st plaintiff sell the said lands, &c. to the 2d plaintiff? that the labors, &c. are also valued at 330 rupees, but it has not been explained by what means the value of 330 rupees was ascertained; that the statement, that the defendant has agreed to pay 200 rupees in consequence of his enjoyment of the disputed lands, and that the 1st and 2d defendants

executed an agreement in the name of the 2 plaintiffs on the 26th Tye of the year Tauranah, engaging to deliver over the disputed lands on the 1st Audce of the year Tauranah is not true; that while it is asserted in the plaint that the deed of sale was executed in the name of the 1st plaintiff, there was no reason to obtain the agreement from this defendant in the name of the 2d plaintiff conjointly; that if the 1st plaintiff had the land sold to the 2d plaintiff, there was no necessity for him to obtain the agreement in his name also for lands to which his right was lost. In regard to the statement, that the 3rd defendant sold the lands attached to his half share to the father of the 1st defendant and executed a deed to him, and that deed was also given to the 1st plaintiff by the 1st defendant, he states, that the 3rd defendant, or the father of the 1st defendant, never enjoyed the lands, &c. separately; that the father of this defendant did not purchase the same; that the 1st defendant did not give it to the first plaintiff.

The second defendant in his answer, denies having been present when the alleged deed of sale was given, or having signed it, and he accedes to the answer given by the 1st defendant he being his elder brother.

The 3rd defendant in his answer states, that of the land mentioned in the plaint, half belongs to him and the 4th defendant, and the other half to the 1st and 2d defendants—and he denies the truth of the statement that he executed a deed of sale for the half share which belongs to himself and the 4th defendant to the father of the 1st and 2d defendants on the 25th Audce of the Doondoobhee—and that on the deed of sale in dispute being executed, the 1st defendant gave the first mentioned deed of sale to the 1st plaintiff, and states, that while the 4th defendant his younger brother is alive, he has no right to execute alone a deed of sale to the father of the 1st defendant—and that in the plaint it is stated, that the joint share of these four defendants is 44 Nunjah and Poonjah Cawnies, of which, 22 Cawnies will then be the share of this, and the 4th defendant; but the plaintiffs have stated, that this defendant executed a deed of sale for the 20 Cawnies of his share to the father of the 1st defendant.

The 4th defendant being the younger brother of the 3d defendant acknowledges the answer of the latter on his part also, and states that it is not true that the 3d defendant sold the lands, &c., attached to the half share belonging to him and this defendant; and that if it be true, there must be his signature in that deed of sale.

In the reply, the plaintiff denies the truth of the statement contained in the answer; and in respect to the 1st defendant's statement that he was mad, and that the land in question, was from the year Chittrabhanoo 1822 to the present period entered in his name in different vouchers, viz. the account called Sangoovadee Dittum, Puttah and Tundull, and that he paid money to the Circar—they asked, how could the Circar give pottah to a madman, and how can a madman pay money to the Circar, and how can they declare him to be a madman while he cultivates the land and pays money to the Circar, and will any person in the world receive a bill of sale from a madman; that these circumstances are not stated in Arzees addressed by the Tahsildar to the Collector, nor in the Takeed issued by him to the Tahsildar; that merely, that the 2d plaintiff should sue in the Civil Court, and in respect to the observation contained in the answer, that while the 3rd defendant is entitled to twenty-two Cawnies of land out of the forty-four Cawnies of land alluded to in the plaint, how could he sell twenty Cawnies—he replied, that at the time when the 3rd

defendant cultivated the same, he had twenty Cawnies of land in his charge, and after he sold his share of land to the 1st defendant's father, he (1st defendant's father) cultivated the same, and improved and cultivated certain waste land, by which the said four Cawnies of land was encreased in the Pymash or measurement made by the Circar, and a puttah was granted for forty-four Cawnies to him (1st defendant's father) and subsequently to himself. They further state, that when the land was sold by the 3d defendant, the 4th defendant was quite young, and was under his guardianship, and they from that time lived a jointly family without dividing.

The rejoinder contains merely a denial of the statement set forth in the plaint, but no new argument is brought forward in it. It is however asserted, that at the time of the alleged sale of the land by the 3d defendant to the father of the 1st and 2d defendants, the 4th defendant was then twenty-one years of age.

The evidence adduced in this case is very contradictory; and the depositions of the witnesses examined in it, are so much at variance with each other, that the Court has no hesitation in declaring some of them have deposed falsely. It may perhaps be difficult to determine on which side the truth lies, but the Court inclined to give credit to the testimony of those witnesses who have deposed to the sale of land to the 1st plaintiff by the 1st and 2d defendants. The Court considers this fact to be established by the evidence of the witnesses Jyahvier, Mamemoottoo Pillay, Moodookistna Pillay, Rumalinga Pillay, and Paroomah Pillay, who with exception of the latter person, have also deposed to the amount purchase of the land having been paid to them.

The story of the 1st defendant, that he was mad for four years, and that the bill of sale regarding the lands in question was extorted from him in the night, appears to the Court altogether unworthy of credit, and the Court cannot believe the testimony of the witnesses Soobroya Pillay, (4th witness) Mootta Pillay, and Soobroya Pillay, (1st witness) that they saw this deed drawn out in the hall of the 2d plaintiff's house at about midnight, from another apartment in the same house, by the light of the moon. These witnesses also do not agree in regard to the time when this document is said to have been executed. The witness Soobroya Pillay (4th witness) represents, that it took place on the 29th Anny in the year Eswarrah; whereas the witnesses Soobroya Pillay, (1st witness) and Mootta Pillay, state, that it was in Anny of Chittrabhanoo.

But of the land, purporting to have been sold by the 1st and 2d defendants to the 1st plaintiff, there is not evidence to the 3d defendant having sold the share of the land belonging to him and the 4th defendant, to Aroomy Pillay, the father of those defendants. The Court therefore cannot confirm the sale of this portion of the land to the 1st plaintiff.

In regard to the slaves said to have been sold at the same time, the bill of sale does not specify the number attached to each share of the land transferred; nor indeed have the defendants shewn their right to make over this body of people to the plaintiff. The Court cannot therefore admit this part of the claim. The Court also disallows the plaintiff's claim to the sum of two hundred rupees claimed under the agreement, exhibit No. 22. As their right to the whole of the land referred to in that document has not been admitted,—there can be no reason why the defendant should pay a penalty for preventing their enjoyment of the same.

On a consideration of the foregoing, the Court decrees that the half share of one-third of the village belonging to the 1st and 2d defendants be delivered to the 1st plaintiff and dismissed the rest of the plaintiff's claim.



No. 30. *Criminal Cases forwarded by Acting Judge of Chingleput, 26th Dec. 1835.*

No.	Names.	Abstract of the Crime or Charge.	Date of			Released, or if allowed a Fine.
			Apprehension.	Leaving the Talook.	Arrival.	
24	Alley Mercoyen and Ebram Saeb, Magapale.	The prisoners charged with having received, purchased and caused to be stolen, by so receiving 29 children, for the purpose of making them slaves.	1825, 4th January.	1825, 7th January.	1825, 17th January.	<p>The Prisoners do not deny having received the children, but accounts for its* during the late famine, and by the statement of many of the children before the Magistrate, it would appear that when destitute of food some of them had spontaneously placed themselves under their protection, and others were sold by their parents or left with the prisoners by them. There is no evidence that they forcibly abducted them from their parents or purchased them surreptitiously, they are therefore acquitted of the charge. But as it appears suspicious that men with such large families should add so considerably to their numbers without any assignable reasons, and as they are both residents of Cuddalore where the practice prevails of transporting children, and the first prisoner being a Shipowner,—the Assistant Criminal Judge has required of Alley Mercoyen and Ebram Saeb to give a penalty bond in the sum of 200 Rupees each, that they shall not make traffic of the children, they have or may have in their possession, or export any at any time.</p> <p>23d March, 1825.</p> <p>(True Copy.) (Signed) H. BUSHBY, <i>Actg. Criminal Judge.</i></p>
171	Ammanee.	Forcibly taking away one day, (date unknown) Parnatty, alias Lutchemy, daughter of the prosecutor, Vennoomalery Moodelly, and having a false deed executed as if the girl had been sold to her.	1826, 5th September.	1826, 13th November.	1826, 27th November.	<p>The Assistant Criminal Judge acquits the Prisoner of the abduction of the child or of having obtained her by any undue means. The proceedings held before him go to confirm her statement of having purchased the girl from the parents, who are the complaining party during the dearth of 1824, when they are said to have executed the bill of sale produced by the accused as she has consented to give up their daughter—the Court directs that she be restored and the prisoner released.</p> <p>29th November, 1826.</p> <p>(True Copy.) (Signed) H. BUSHBY, <i>Actg. Criminal Judge.</i></p>

\* Sic in orig.

## SOUTHERN DIVISION.

## PROVINCIAL COURT.

No. 31.

TRICHINOPOLY.

3. Although slavery is shewn by the reports, which are now submitted, to prevail in several parts of the division, there is no doubt but that slaves are treated by their masters with much kindness and that they are looked upon more as being members of their families than as their bond servants.

4. No instance has ever come to the knowledge of the Judges in which a master was accused of treating his slave with undue harshness. On the whole, the Court are led to believe, that the state of slavery is, in this part of India, a condition of contentment and happiness to those living under it.

29th June, 1836.

Copies of two decrees which accompany this report will be found below. Nos. 45 and 46.

*G. S. Hooper, Judge, Madura.*

No. 32.

2. I am unable to afford any information on this subject grounded on observation and experience in the performance of my duties as Judge and Criminal Judge of this Zillah. Not a single case either of a Civil or Criminal nature has hitherto come under my cognizance in any way involving the question of property in slaves. The little I have to offer on the subject, has therefore been solely derived from occasional conversation with the natives and enquiries instituted through the most intelligent of my Court servants, and others, *since* my attention was more particularly directed to it, by the papers before me.

30th April, 1836.

3. The Principal Collector and Magistrate of the district must be infinitely better qualified than myself to furnish information regarding the customs prevailing among the inhabitants, as his duties necessarily bring him more immediately in contact with them—and his report will I dare say, have rendered all I have to submit on that point of the subject, almost superfluous. The following however is the substance of the information I have collected relating to the various forms of slavery (*so called*) now prevailing in this part of the country.

1st. An inhabitant proprietor of land purchases a slave (called “Adema”) of the Pariar or Puller castes to assist in the cultivation of his land, and perform whatever work he may require of him. In this case the master is bound to maintain the slave, get him married at his own expense, and protect him and his family; exercising the authority of a master over him, and *over his property too*, if he should become possessed of any, which sometimes happens by thieving or other means. This however would appear to be rather *with the consent of the slave* than in virtue of any right vested in the master, as slaves of this description are not incapacitated from possessing property independent of their masters, and leaving it to their heirs;

but should the slave *die*, the master, generally, it is believed, takes possession of it himself. The master is *said* to have an *absolute claim* to the *person* and *services* of his slave, but this is merely nominal in effect, for should the latter in consequence of ill-usage, or for any other reason, choose to desert his master, he is at liberty to go where he likes—and even to attach himself to a new master. In which case, the former master would lose the purchase-money he originally paid for the slave, unless (as is said to be sometimes the case), the new master chooses to pay it, but the other neither insists upon the restoration of the slave, nor for the payment of the money—and should the master from poverty or other cause, *cease* to afford maintenance to his slave, the latter seeks it elsewhere by transferring his services to some other master, or by laboring as a free man for hire. The master may dispose of his slave to another person, but *not without his* (the slave's) *consent*. But I believe, the connection between a master and his slave is very seldom broken *in any way*, as their mutual interests so much depend upon its continuance. Should disputes arise, they are probably settled amongst themselves by punchayet, or by the Native Revenue and Police authorities in the Talooqs, for they never come before the *European authorities*.

2ndly. Rich natives, principally in seasons of scarcity or famine, buy children of both sexes, and train them up as domestic servants in their families, or they purchase the services of grown up persons, who voluntarily sell themselves as bondsmen in times of difficulty, sometimes *for life*, sometimes for a *term of years*. These slaves are fed and clothed, and sometimes married at their masters' expense. Should they afterwards prove thieves and rogues, they are turned adrift—and on the other hand, should they dislike their master's service, they leave it and seek shelter and service elsewhere, yet no appeal to the authorities is even made by the master, in such a case, for the recovery of the slave.

3rdly. Mussulmans also purchase *Hindoo* children from their parents and others. This also most frequently happens in times of scarcity, when their parents are starving themselves and unable to support them, but sometimes the children are stolen or kidnapped and sold to them, such slaves sometimes rise to so much consequence in the family in which they are brought up, that they are no longer regarded as slaves, but become as members of the family. They almost always become converts to, or are brought up from infancy in the Mahomedan religion, and married to females of the same faith, but of a lower grade. After three generations, however, their descendants are considered true Mussulmans, and are admitted to all rights and privileges as such.

4thly. Dancing women are in the habit of purchasing female children of the better castes as slaves, whom they bring up in all the accomplishments peculiar to their own profession. But these girls, after they grow up, claim equal right to the property of their mistresses as if they were their own daughters, and after their mistress's death, perform their funeral rites, and become heir to their property. After which they become *entirely free*. They are in fact, to all intents and purposes on the same footing as *adopted children*.

4. The relations above described (except perhaps those of the 1st class,) certainly cannot be said to constitute *true slavery* according to the general acceptance of the term,—such however, I am assured by my informants, is the real state of things in this part of the country at present. *If so*, it is a mere *nominal* slavery, divested of all its worst features, and assuming the mildest aspect and form imaginable, often proving a *blessing* rather than a *curse*.

5. On the Malabar Coast it is *far different*; there slavery exists in its most degrading form; there, as I know from personal experience and observation, it is the cause of constant litigation in the Courts. Slaves are bought and sold, and transferred from one owner to another just like cattle, or any other kind of property, and in almost every suit regarding land, they are included as its *natural* and *inseparable* appurtenances, and are sold like other property in satisfaction of decrees. The rights of masters and slaves are there, of course, accurately defined, and fully recognized and adjudicated by the Courts.

6. I am told indeed, that in former times, slaves in this Province, were flogged and tyrannized over by their owners, who then exercised much greater power over them than they do now, but that since the commencement of our Rule, in consequence of the equal protection afforded to all ranks and classes of people, such practices have almost entirely ceased, and masters no longer exercise or pretend to possess such absolute right over the persons and actions of their slaves as they used formerly. It is not to be supposed however, that slavery *ever* existed in *this part of the country* as it *does now in Malabar*:—that it has at any rate undergone a great change, is manifest from the fact that it neither leads to the institution of civil suits, nor is apparently the cause of Criminal prosecutions in the Court.

7. But what tends more than any thing else to prove, that slaves are not really regarded here in the light of *property* is, that *no slave was ever yet sold in satisfaction of a decree of Court*, nor has it ever been attempted to make them available for that purpose. Nothing, I think, can be more conclusive than this.

8. After a most careful search of the Records, I can only find, *one final decree*—“whereby property in slaves has been recognized or rejected, or which determined any question respecting slavery,” and this is a decree passed in 1823,\* by an *Acting Register* of this Court, which has *never been executed to this day*: there is only one other suit to be found, which at all refers to the subject under discussion, and that is O. S. No. 218 of 1824, in which the plaintiff sued for the recovery of a slave (3d defendant) valued at 14 rupees, alleged to have been taken from him by the 1st defendant, and his younger brother the 2d defendant, and for an award to secure to him (plaintiff,) the services of the 3d defendant for ever. A *deccanamah* was filed in this case before the Pundit Sudr Aumeen, in which it was related, that 1st and 2d defendants should give up the 3rd defendant to plaintiff, receiving from him 3 Cullypoons—and so the matter ended.

9. I can discover nothing in the *Criminal* records at all, bearing upon this subject, except 4 cases noted in the margin,\* in which the prisoners, chiefly females, were charged with having *kidnapped* children for the purpose of *selling them as slaves*—in one of which the prisoner was sentenced by the Court of Circuit to three years' imprisonment with hard labor.

10. As no precedent other than the salutary decision abovementioned (too insignificant in all respects to have much weight) is to be found on my records to show what the *former* practice of this Court has been—and as I have had no opportunities myself since I have presided in it of deciding questions of a similar nature; I am of course unprepared to state “what are the legal rights of masters over their slaves” with regard both to their persons and property which are *practically recognized* by this Court as required by the 1st question proposed by Mr. Millett.

11. But I presume that in civil cases the Court must be guided by Clause 1st, Section 16, Regulation III. of 1802, and by what might appear in evidence to

\* Calendar Case No. 8, 1st Session 1835.

Criminal Case No. 76 of 1832.

Ditto No. 63 of 1833.

Ditto No. 66 of 1831.

\* See No. 48 *infra*.

be the usage and custom of the country in such matters; what would be the course pursued in the particular cases, the conditions of which are specified by Mr. Millett, I cannot pretend to say, as nothing of the kind has ever come before me. But I have no hesitation in declaring that, no claim to property, possession, or service of a slave would be admitted or enforced except in behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant.

12. I am equally unable for the same reasons to give any definite answers to the 2d and 3rd questions founded upon any course hitherto pursued in this Court, further than to state, that I would make *no distinction of persons* in the administration of Criminal Justice *in any case whatever*, that I would not recognize the relation of master and slave as justifying acts otherwise deserving of punishment, nor even as constituting a ground for *mitigation* of it,—that I would extend to slaves complaining against their masters *the same protection* as to any other description of persons,—and that I would *in no case* afford *less protection* to a slave than to a free person.

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No. 33.

*T. Prendergast, Assistant Judge, Auxiliary Court, Tinnevely.*

15th May, 1836.

In reply to your letter of the 30th November last, I have the honor to forward translation of a decree passed by the Sudr Ameen of the Auxiliary Court recognizing property in slaves. There do not appear in the records any decrees of this description passed by my predecessors, and those cases which have come before me are either still undecided, or the time for appeal against any decisions thereupon has not elapsed. Many others exist of a similar description to that now forwarded, but no different principle is involved in them, and no question as to the respective rights of masters and slaves is determined by them. The latter is claimed in similar form with goods and chattels and with equal indifference awarded to the party whose right is proved. The document B\* shows that so lately as January, 1834, four slaves were sold openly before the Auxiliary Court in satisfaction of a decree passed by a district Moonsiff. The following is a summary of the information which I have gathered regarding the state and condition of slaves. In this Zillah, slaves are to be found among all the tribes of the Sudra caste. The Vellala, Vadakar, and other corresponding tribes are not required to perform the drudgery which is exacted from the Pariars, &c. but are employed chiefly about the house and in the lighter duties of cultivation. They have also great advantage in point of recompence for their labour, for while the Pariars get only 2½ measures of paddy per day, and their women two measures—the former receive 4 and their women 2. It is remarkable, that variations in the price of grain are declared not to affect this allowance, but the truth of this assertion may be fairly doubted. Among the higher classes of slaves, the daughters are always reserved, if of pure blood, for the harems of their master's or his relations, and from the offspring of these alliances are taken wives for the male slaves. From this system of connection probably arises the confidence which is reposed in the female slave by a master of her own caste. She is employed in washing, bringing water to the house and attending his children, and is exempt from all laborious duties. Her employment

No. 50.

A decree of the Sudr Amin of this Court also transmitted, will be found below No. 49.

in short, is the same as that of a wife in a family where no slaves are kept. The expenses of their marriages and funerals are borne exclusively by their masters, each male whether married or not, is provided with a house for himself, and he is permitted to amass whatever by his diligence he may acquire. Such acquisitions, however are very rare, although in executing a prescribed task no want of zeal on the part of the slave is discernible. He works with alacrity, and his labor is more valuable than that of a hired day laborer, while his wages are little more than half the hire of the latter. This alacrity, however, is confined to task-work;—in the fields, they require to be constantly watched, and the cane in constant use. They generally labor from 8 till 4; but when occasion requires it, their whole time, day and night, must be spent in the field. When not required by their masters, they are permitted to work for hire, and by this means, some have attained the means of purchasing their freedom, though they can seldom procure it for less than double their own value. The price of a well bred strong young man very seldom exceeds rupees 20, yet there are few candidates for the honor of being free at the sacrifice of a comfortable and certain provision. Many attain to a very great age, (a proof that they are not worked beyond their strength,) and when they become infirm and useless, they are still fed by their masters. It is the prospect of this, above all things, that reconciles them to serve a hard master. With one who is mild and indulgent, their life is easier than that of a man who earns a precarious subsistence as a day laborer. Many instances have occurred of men in adversity being supported by the gratuitous labor of their slaves, and one landholder in this Zillah, is at this time, in the daily receipt of half a measure of grain from each of his five hundred slaves.

When property in slaves is acquired by purchase, it is customary to take a bond from each male, whereby he engages himself and his posterity to serve his master and his heirs for ever. Such purchases are seldom made except, when land also is bought, for slaves are for the most part attached to the land as part and parcel thereof. When an estate is divided, the slaves are indiscriminately awarded to each share-holder without reference to their castes. The Vellala is not valued at a higher rate than the Pariah, although their respective prices in the market may be rupees twenty for the former, and only rupees four or five for the latter. The females are always allowed to live with their husbands, whether the latter belong to their masters or to strangers. The stranger in such case has the benefit of the work she performs, but she still continues to be the property of her master, and her children as soon as they are able, are obliged to work for him. The women appear to be of little value as respects the labor they perform, yet their price is generally higher than that of men of equal age and qualifications, owing of course to the arrangement I have just mentioned.

Among the Mussulmans in this Zillah, the system of slavery differs in no respect from that prevailing generally throughout India. There are very few Mussulman slaves in Tinnevely and the inland Talooks, but the Lubbays on the coast circumcise every slave whom they purchase whether of high or low degrees, and they are thenceforth treated as Mussulmans. In Tinnevely, Pettah, Mailapalliam and Palamcottah where the Hindoos greatly preponderate over the Mussulmans, the better classes of slaves are alone subjected to the aforesaid operation. Pariahs and Pullers are held out of complaisance to the Hindoos too vile to be brought within the pale. As the circumcised cannot be sold to a Hindoo—the value of a well born slave is very materially affected by his circumcision, for a

Mussulman purchaser considers him to be of no greater worth than a circumcised Pariah, and a Hindoo would have a feeling of horror at the idea of taking him into his service.

The records of this Court do not show that any legal right of masters over their slaves has been recognized hitherto, save that of transferring them by sale or gift to other persons. No cases have occurred wherein the relation of master and slave has been introduced as a plea either in justification of a criminal act or in mitigation of punishment. No complaints of ill usage have ever come before this Court wherein a slave and his master were the parties concerned—neither have any Mussulman slaves ever been placed in a situation to require the indulgences granted to them by the Mahomedan law. There are no instances on record of slaves having sought for protection whether against their masters or other wrong-doers.

The Rule contained in Clause I, Section 16, Regulation III of 1802, appears to me to apply with propriety to cases involving questions regarding slavery. As it is decidedly contrary to the spirit both of the Hindu and Mahomedan laws to permit slavery in such a form I conceive, that no claim can stand if opposed to any direct enactment in either code. But it will be found that immemorial custom has sanctioned the purchase and possession of Hindu slaves by Mussulmans, and I have already remarked that (with one local exception) slaves bought by Mussulmans are circumcised and thus cease to be Hindoos. I am therefore of opinion that many cases may arise wherein Mussulmans may be decreed to be legal owners of slaves of Hindoo origin. The converse however does not hold, for it would be difficult or perhaps impossible to find any Hindoos with Mussulman slaves in their possession, their law having produced a general repugnance in their feelings to the reception of slaves of that class, and proselytism being unknown to them. In conclusion I would observe, that there is one form of slavery which should supercede all considerations of caste and religion between Hindoo and Mussulman, and that is, when a man offers himself as a slave, voluntarily resigning his liberty with a view to obtain the paltry sum which another may consider to be the value of his labor. Under all circumstances I should consider an Englishman or any other alien debarred from the right of holding slaves by the hostility which the English law displays to that brutalizing practice.

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*F. M. Lewin, Judge, Combaconum (Tanjore.)*

No. 34.

20th January, 1836.

I have the honor to forward Copies of 4 Decrees passed. One by the Southern Provincial Court of Appeal; 2 by the Judge; and 1 by the *Moofly Sudr Ameen* of the late Zillah Court, of Trichinopoly, which are all that can be discovered after due search in the Records of this Court, although it is probable there are others if there was any clue to find them by.

\* No. 1747 of 1812.  
15th January, 1812.  
Zillah Court, Trichino-  
poly. See Nos. 51 to 54  
supra.

The plaintiff in this\* suit was master and the defendants his slaves, on whom the plaintiff advanced 18 rupees and purchased them as his Pullers or menials from their uncle. The defendants having absconded from the plaintiff, this suit was brought. The *Moofly Sudr Ameen* who tried this suit, decreed to plaintiff his legal right over the slaves the defendants, who were ordered by the decree to serve the plaintiff as his Punnials.

The decree in this\* suit recognizes the right of transferring Pullers together with lands.

\* Southern Provincial Court.

Appeal No. 89,  
13th June 1809.  
No. 53 *infra*.

Original suit No. 90, on the file of the late Zillah Court of Trichinopoly, 16th April 1807.

In the plaint filed in this suit, the plaintiff sued to recover from the defendant, certain lands and also *Pullers*, on mortgage of which he advanced a certain sum of money on condition of redeeming it at a certain stipulated period, and on failure thereof, the property to be considered as sold. The decree in this suit was passed awarding to the plaintiff the sum he advanced, together with interest.

In\* this suit, the plaintiff sued to recover certain land and *Pullers* attached thereto, which had been sold to him on a bill of sale. The suit was dismissed by the failure of the plaintiff to attend at the appointed time.

These claims shew, that the Pullers or menials have been sued for in decrees as transferrable from one individual to another, together with the lands sued for, and this is customary in these provinces.

But legal rights of masters over slaves appear latterly, to have been less and less recognized as such by the Company's Courts: and as far my experience goes, I am inclined to believe, that the authorities have all along endeavoured to reconcile the disputes of these people upon the same principle, as those between master and servant in other countries are settled.

The Pullers are not like slaves. There is no slavery in their treatment: their transfer with lands resembles the transfer of ryots on an estate, alienated by Government, as Yanam, Shotriem, &c. &c.

In the Criminal Courts there does not appear reason to believe, that any distinction whatever is ever made between a slave and any other menial servant. Equal protection being afforded to all.

Generally speaking, it may be said, that the authorities have managed as well as they could without any fixed rule, guided by the principle of justice and right, and adopting their decisions as much as possible to the manners and customs of the people.

*J. Goldingham, Acting Judge and Criminal Judge.*

No. 35.

In reply to the letter dated 30th ultimo with accompaniments from the Acting 2d Judge for the Register relative to the system of slavery prevailing in the Provinces, I have the honor to state that it does not appear that the subject has ever been before this Court which precludes my offering any remarks thereon.

Salem.

17th December, 1835.

*J. D. Bourdillon, Acting Assistant Judge, Auxiliary Court,  
Coimbatore.*

No. 36.

It has happened in one or two instances, that a certain number of slaves have been included in a mortgage of land: but no question has been raised on that point, and no mention made of it in the decree.

19th February, 1836.



*J. Blackburne, Magistrate, Madura.*

No. 37.

21st January, 1896.

2. The records of my office do not afford the slightest information on the subject;\* after premising that only one instance, easily and unofficially adjusted by me, has come to my notice, in my two years' experience of this district, to shew how little the subject calls for consideration, as applicable to this district alone, I proceed to lay before you its extent and particulars.

3. Slavery is tolerated amongst three classes of people, but to an exceeding trifling extent when compared to the whole population.

1st. The Allodial slaves are confined entirely to the two castes of Pullers and Pariars, the former having existed from length of years; the latter more recently introduced, and their value greater than that of the former. The master's right in them is positive, and they are disposed of both with, and also separately from, the land. The master has right to the slave, to his wife, and to the male issue,—the female issue being at liberty to marry and go where she pleases. But slaves are not incapacitated from holding property; which descends on their death, not to the master, but to the son or widow, or heir at law. The claims of individuals to the same slave are settled promptly on the spot, by punchayet, or by the Tahsildar. But such cases never come before the European authority. The slave is entitled to protection and maintenance from his master, and it is understood, that in seasons of calamity and scarcity, this protection has been generally afforded, whilst free cultivators were perishing from want.

The second class consists of domestic slaves or bondsmen, become such by their own act,—selling themselves in times of difficulty for present preservation and hope of future maintenance. These are chiefly from the same two castes, and perform menial offices in the houses of their Mussulman masters, becoming willing converts to their faith, or brought up in the Moslim religion from their infancy: and these slaves can hold no property.

The third class is confined to the public dancing girls,—their ranks are recruited by purchase of infants, who generally become dependant and attached to their profession. They are tended with care, taught the accomplishments indispensable to their profession: and after their early childhood, which is passed more as a state of pupilage than slavery, all the property they acquire, belongs in fact to the female by whom they were originally purchased, and by whom they are originally considered as children, often becoming their heirs; and on her death, they are to all intents and purposes free—following their own desires, and disposing by gift or will of any property they acquire.

4. If called upon to act as a Magistrate,—a slave would meet with precisely the same protection from me, that I should afford to a free servant against his master: and such, I believe, is understood generally to be their right.

5. Since a proclamation of the late Magistrate in 1829, prohibiting the purchase of slaves, they are supposed to have decreased amongst the two last classes; but in no way has it affected the degree of Allodial slavery. As far as this district is concerned, no new law is particularly required. The power of bondage is more generally a blessing than a curse, and a simple discountenance of the practice, by the public authorities in particular cases, seems to be all at present required here.

*J. Bishop, Joint Magistrate, Tinnivelly.*

No. 38.

21st December, 1835.

2. In reply to para. 1 of Mr. Secretary Millett's letter,—the right of masters over their slaves, in this district, is not acknowledged. The castes of cultivators called Pullers, are bought, sold, and mortgaged with the lands of their masters, as has been the custom for very many years. Their employment is solely for cultivation, and during its continuance, they receive a daily allowance. They are afterwards at liberty, to hire themselves out to any one requiring their services, appropriating what they may thus gain to their own use. It would appear, that the Pullers submit to their being bought and sold in the present day, more from its having been the custom of the country than any thing else, and from their being equally well off, or perhaps better, from the certainty of subsistence during the greater part of the year than the common laborers of the village. A Puller, running away from his master, is not interfered with, by the Magistracy,—should any complaint be given on the subject. Besides the slaves abovementioned, there are what are termed domestic slaves, possessed generally by Mussulmans, the wealthy Hindoos and Palligars. All the general duties of the house are performed by this class who are considered as belonging to the family. They are purchased when young and seldom afterwards sold.

3. In reply to the 2d and 3d paras. of the letter under reply,—any complaints made by slaves, of cruelty on the part of their masters, are considered in the same light as those of any other person; and no difference with regard to the punishment of the offender is made,—whether he be the master of the slave, or any other person doing him wrong.

*II. M. Blair, Magistrate. Trichinopoly.*

No. 39.

5th January, 1836.

2. In reply, I have the honor to state for the information of the Court of Sudr and Foudjaree Udalut, that there are in this district, a class of slaves denominated Pullers, who are the cultivators of the soil, and belong chiefly to the proprietors of the wet or paddy lands. They are commonly sold or mortgaged by their owners with or without the land; but are never removed from their usual place of residence without their own consent.

3. Proprietors can scarcely be said to have any legal right over the persons of their slaves in these provinces.

4. As Magistrate, I have always declined interfering on a complaint, being preferred to me, of a slave having absconded from his master; and during nearly four years I have been in this district, I have never heard an instance of a civil action having been brought for the recovery of a slave.

5. It is very rarely however, that the Pullers do quit their masters; which is a certain sign, that they are generally well treated.

6. The right of a master to punish his slave is not recognized by the Magistrate; and on a complaint being preferred by the slave against his master for ill-treatment, the latter would be punished according to the provisions of the general Regulations, without reference to the relation existing between the parties.

7. Besides the slaves abovementioned, there are in some of the Hindoo Pagodas, dancing girls, who have been purchased from indigent parents in time of scarcity. Their numbers however, in this district, are not great; and it may readily be supposed from their mode of life that their state of slavery is not a harsh one.

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No. 40.

*N. W. Kindersley, Magistrate, Tanjore.*

11th December, 1836.

1st. No legal rights of masters over their slaves with regard to their persons or property, are recognized by the Magistracy in this Province,—although the slave population is very numerous.

2dly. The Magistracy does not in the smallest degree recognize the relation of master and slave, as justifying acts, which otherwise would be punishable, or as constituting a ground for mitigation of punishment. The same protection is extended to slaves preferring complaints of cruelty or hard usage against their masters, as if no such relation existed between them. There is no distinction between Mussulman and other slaves.

3rdly. The 3rd point is answered in the reply to the second.

2. Upon the whole, slavery in Tanjore may be said, (though it be a paradox,) to be strictly voluntary. So long as the slave chooses to remain with his master he does so, and leaves him for a better, at pleasure. Nothing but a civil suit, which would cost more than ten years of his labor, can recover him, and being recovered, there is nothing to prevent his walking about his own business, as soon as he has left the Court, which has pronounced him to be the property of another.

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No. 41.

*John Orr, Magistrate, Salem.*

2d March, 1836.

In reply, I beg to acquaint you that slavery does not exist in this Zillah, and to submit for the information of the Court copy of communications received on the subject from the *Joint and Assistant Magistrates*.

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No. 42.

*W. C. Ogilvie, Joint Magistrate, Salem.*

18th January, 1836.

I have the honor to state that the system of slavery therein alluded to, does not exist in any part of the four Talooks under my charge.

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*W. Elliot, Assistant Magistrate, Salem.*

No. 43.

22d February, 1836.

I beg to state that slavery is altogether unknown in the Talooks of Darumpoory and Womalore.

There is a custom however, existing amongst the natives, both male and female, to purchase little children. But this is very seldom, if ever done, except during a famine, and then only in consideration of the indigent circumstances of their parents.

Men purchase little girls for wives, and women purchase them for servants. In the latter case, they are at liberty to abandon that protection whenever they may think proper. The parents in both cases cease to have any control over their children, from the time of their changing homes: and in both instances the laws are *veteris paribus*, the same as those laid down for the observance of every other member of the community

*G. D. Drury, Magistrate, Coimbatore.*

No. 44.

20th June, 1836.

1. The customary right to the labor of a slave, amounts in the villages, in which it is acknowledged, to little more than the usual rights of masters of families. The master is obliged to provide a slave with a residence, and to furnish him with food and raiment; when a slave refuses to perform the work which he consented to do, he may be compelled by forcible means, such as threats, accompanied with slight correction. But any compulsion attended with violence and cruelty, is punishable as an heinous offence under the rule laid down by the Court of Foujdaree Udaltut dated 27th November 1820. The general opinion with respect to the property of a slave is, that, whatever belongs to a slave belongs to his master. But without the consent of a slave, the master would refrain from taking any of his effects, even the cattle he might possess for agricultural purposes. Nor could he take effects which the slave himself had purchased or received by free gift from the master. The property of a slave is derived from the master. The master pays the expenses of his slave's marriage and makes donations of cloths and of money on the birth of his child. All the children of slaves become slaves. Female slaves become free only by marriage with a party who is not a slave. The slave receives either a share of the produce, or an allotment of land which he cultivates for his support. A slave may be sold with or without the land, and he may refuse, with the consent of his master, to serve another landholder.

2. In the relation of masters, slaves or Pullers are entitled to the same protection from the Magistrate, as any other class of the inhabitants; and all personal injuries done to that particular class, to whose labor by the custom of the country there is an acknowledged right, are personal wrongs, punishable in the same manner on conviction, as on the occurrence of offences committed upon any other party.

3. Slaves in this district are agrestic only. No slaves are acknowledged as belonging to the Mussulman classes, who may be compelled by them to perform servile duties. A Mussulman may hold lands in which slaves perform agrestic services: and in all suits regarding property, possession or service of a slave on

behalf of a Mussulman or Hindoo claimant, there can be no distinction, because the usage of slavery as appertaining to the land continues the same whoever may be the owner of it.

4. I regret the delay, with reference to your letters dated 3rd May and 10th June last, which has occurred in complying with your requisition, and which has arisen from the information on the subject not having been received from the Acting Joint Magistrate within whose Division only the system of Agrestic Slavery prevails—copy of his letter dated 11th instant, is herewith forwarded. In all cases of personal wrongs done to a party being a slave, he will be referred to the orders of the Foujdaree Udalt for his guidance.

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No. 45.

*T. A. Anstruther, Joint Magistrate, Coimbatore.*

11th June, 1896.

Slavery prevails only in two villages, Neroo and Vamgul, in the Talook of Caroor.

The rights of the masters and slaves are as follows. Sons of slaves inherit their parents' property and remain slaves. Daughters do not and are free.

The master may, in moderation, correct his slaves; and the latter, by their own statement, have no right to complain. If the slaves run away, the right of the master to call on the Police for aid in their re-apprehension, was recognized, it is said by Mr. Hurdin in one instance; the circumstances of which I have no means of ascertaining. But in later instances, in Fuzlies 1228, 1232 and 1234, the masters peaceably persuaded their slaves to return.

There are no cases on record in this office or in this division of complaints by slaves against their masters or vice versa: but I think it right to state that in any case which might arise, I should recognize the relation as authorizing acts otherwise illegal.

Neither are there any cases on record, wherein slaves have met with less protection than free persons against wrong-doers not their masters. But I should, in certain cases, give to them less protection than I should to free persons. In cases, for instance, of abuse, so as the character of the slave is not injured in his master's eyes, he has not suffered as a freeman would—and in cases of assault causing disability to work, the slave suffers the assault while the master suffers the loss of work—also in cases, where the wrong doer is a fellow slave, punishing him by imprisonment, would be directly punishing his master.

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*Copies of Decrees\* which accompanied the Report of the Provincial Court, dated 29th June, 1836.*

PROVINCIAL COURT, SOUTHERN DIVISION.

*Copy of the Decree on the Appeal from the decision of the Zillah Court at Ramnad, No. 363.*

ZEMINDAR OF SHEVAGUNGA, Appellant,

*versus*

MEENNUMAUL, Respondent.

Southern Provincial  
Court of Appeal.  
No. of Register 9.

Trichinopoly.  
17th March, 1806.

The Provincial Court having attentively perused and considered the petition of Appeal,—the record of proceedings in the Zillah Court on this suit, the proclamation published by Government under date the 6th July, 1801, declaring the district of Sheevagunga under martial law,—the proclamation published by Government under date the 1st December 1801, extending a pardon to the inhabitants of the Southern Provinces, who had been seduced from their allegiance to the British Government,—and the opinion of the Hindoo law officer on two questions put to him by the Court,—are of opinion, that the two matters of plaint preferred by the plaintiff in the Zillah Court, namely, the recovery of jewels, valued at 1542 Star Pagodas, and again for the recovery of jewels, valued at 1100 Star Pagodas, are not cognizable by any Civil Court of Judicature, and ought not to have been investigated by the Zillah Judge,—as the property appears to have been taken by the Zemindar during the operation of military law in the district, where the cause of action originated, namely, in the months of Arpashy and Margaly, in the year Doormatty, corresponding with October and December, 1801.

Respecting the 3rd matter of plaint, viz. for the recovery of jewels, valued at 350 Star Pagodas, which appears to have originated subsequent to the promulgation of the general amnesty, that is, in the month of Chittray, in the year Roodraucaury (April 1803),—the Provincial Court observing, that the plaintiff Meenumaul in her reply delivered to the Zillah Court, acknowledged to have placed these jewels under the care of her servant Alago in the month of Pretausy, in the year Doormatty (September 1801) at a moment when her husband Sevagayanum, a son of Murdoo Sheroogar, was conducting a flagrant and dangerous rebellion against the British Government—and the Provincial Court referring to the 6th para. of the aforesaid proclamation dated the 6th July 1801, which declares the family of Murdoo Sheroogar, the slaves of the house of Nalacooty,—put two questions to the Hindoo law officer to the following purport: 1st, if the wife of the slave, originally free-born, became a slave on her marriage; and 2dly, if a slave had title to property acquired by an usurpation of the rights of his master. And the answer of the Hindoo law officer to the first of these questions being,—“The wife of a slave is also the slave of the master,” which he corroborates by a verse from the Jaggonadyen “the husband and wife are one and the same”—and by a verse from the *Smirtteehindick* in the chapter concerning

\* See No. 31 *Supra*.

slaves, "the husband is master to the wife if that husband be a slave, although his wife be born of free parents she is also a slave"—and the answer to the 2d of these questions being "any riches acquired by a slave in consequence of the assumption of his master's property, belong not to the slave but to the master,"—the Provincial Court are thence of opinion that Meennamaul being a slave can have no right to the above jewels, which she claims and valued at Star Pagodas 350.

The 4th matter of plaint respecting a claim to land in the village of Calengoody and arrears of rent thereon, decided on by the Zillah Court, does not come under review of the Provincial Court,—the Zemindar not having appealed against this part of the decree.

Therefore the Provincial Court declare,—that, excepting such part of the decision of the Zillah Court which relates to the said land in the village of Calengoody, with arrears of rent thereon for three years, the decree passed by the Zillah Judge on the 30th May 1805 on this suit be annulled—that the claim preferred by the Plaintiff Meennamaul to the recovery of jewels, said to be taken by the defendant, the Zemindar of Shevagunga in the months of Arpashy and Marghaly, in the year Doormatty, (October and December 1801,) and in the month of Chittray, in the year Rootracaury (April 1803,) amounting in all to Star Pagodas 2992, be declared void,—that the appellant do recover from the securities of the respondent the amount paid to him for costs of suit in the Zillah Court, viz. Star Pagodas 185, fs. 28, cash 29, that the securities of the Respondent do further pay the costs of appeal, viz. 369 Arcot Rupees and 5 fs., Pleader's fees; and 3 fanams, 17 cash the retainer, in all 369 Arcot Rupees, 8 fs., and 17 cash within one month from this date, and that the Zillah Judge be directed by Precept to enforce the exigence of this decree within three calendar months from the date hereof.

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*Copy of the Decree\* on the Appeal from the decision of the Zillah  
Court of Ramnaud, No. 630.*

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Southern Provincial  
Court of Appeal.  
No. of Register 13.

ZEMINDAR OF SHEVAGUNGA, Appellant,

*versus*

VEROYEE ATTAL, Respondent.

Trichinopoly.  
17th March, 1806.

The Provincial Court,—having attentively perused and considered the Petition of Appeal, the record of Proceedings in the Zillah Court on this suit, the Proclamation published by Government under date the 6th July 1801, declaring the district of Shevagunga under Martial law; the Proclamation published by Government under date the 1st December 1801, extending a pardon to the inhabitants of the Southern Provinces who had been seduced from their allegiance to the British Government, and the opinion of the Hindoo law officer on the following points, put to him by the Court,—“Does the wife of a slave originally free-born become a slave on her marriage,” to which the Pundit answered,—“The wife of a slave is also the slave of the master,” and corroborated this opinion by a verse from the *Jagyanandiyum*, “the husband and wife are one and the same,” and by a verse from

\* See No. 31 *Supra*.

the Smirtheechendickey in the chapter concerning slaves “the husband is master of the wife; if that husband be a slave, although his wife be born of free parents she is also a slave;” and again,—Has a slave, title to property acquired by an usurpation of the rights of his master, to which the Pundit answered, “any riches acquired by slaves in consequence of the assumption of his master’s property, belong not to the slave but to the master,”—are of opinion, that the claim of Veeroyee Attal to the recovery of jewels, valued at Star Pagodas 4,125, from the Zemindar of Shevagungah, is inadmissible, because the plaintiff in his petition delivered to the Zillah Court, states, that she secreted the above jewels in the month of Pretausy in the year Doormaty (September 1801) at a moment, when her husband Murdoo Sheerogar was the principal conductor of flagrant and dangerous rebellion against the British Government; and although the above jewels were taken by the Zemindar subsequent to the promulgation of the general amnesty, yet the answers of the Hindoo law officer to the two points of law put to him by the Court as above noticed, disallows her right to the possession of any property—for the 6th para. of the promulgation dated 6th July 1801, declares Murdoo Sherogar the slave, to the house of Nelcooty, and Veeroyee Attal the plaintiff, although free-born, becomes by her marriage with a slave, a slave also.

And further the Provincial Court can only view Veeroyee Attal, the wife of Murdoo Sherogar, in the light of a pensioner, on the bounty of the Zemindar of Shevagungah, and not entitled to the possession of property, which become forfeited by the crimes of her husband against the state.

Therefore the Provincial Court decree,—that the decision passed by the Zillah Judge on the 1st November 1805 on this suit, be annulled,—that the claim of the plaintiff Veeroyee Attal for the recovery of the jewels valued at 4,125 Star Pagodas from the Zemindar of Shevagungah be declared void;—that the Appellant do recover from the securities of the Respondent the costs of suit paid by him in the Zillah Court amounting to 222 Star Pagodas, 15 fs. and 36 cash, that the securities of the Respondent to pay the cost of appeal amounting to 448 Arcot Rupees, 19 fs. 40 cash, the fees of pleader, and 3 fs. 17 cash the retainer, in all amounting 448 Arcot Rupees, 12 fs. 57 cash, within one month from this date, and that the Zillah Judge be directed by Precept to enforce the exigence of this decree within three calendar months from the date hereof.

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No. 48. *Copy of a Decree which accompanied the Report of the Judge of Madura,\* dated 30th April, 1836.*

*Decree passed by A. T. Bruce, Esq. Acting Register to the Zillah Court of Madura in O. S. No. 3 of 1823.*

SOOBROYEN of MADURA, Plaintiff,

*versus*

(<sup>1</sup>) ALLAMELLOOMANGY,  
(<sup>2</sup>) MUTTOORETNUM and (<sup>3</sup>) ALAGAMUTTOO, } Defendants.  
Dancing women of Madura,

20th September, 1823.

Plaintiff states, his father Nagapen, on the 5th of the month Viasy, in the year Sadarana, purchased the daughter of Naranamah, Palancyajee by name, alias Kanakabeshegum, for Parengy Pagodas four, and Chukra fanams sixteen, and her issue for ever, and then took a bond of servitude in acknowledgment from her mother: and on the 22d of the month Tye, in the year Sadarana, Nagapen purchased Allemelloomangy and the issue of her body for ever, for Parengy Pagodas  $2\frac{3}{4}$  and Chukra fanams 16; and took a bond of servitude in acknowledgment as before. These two with plaintiff's father, sisters, daughter Nagamaul, having† instructed in singing and dancing, devoted them to the service of the Idol in the Pagoda, and by means of them he procured jewels, purchased ground and built thereon. Plaintiff's father bought for Palancyajee, alias Kanakabeshegum, Allagamuttoo, and having taught her singing and dancing, placed her at the disposal of the Pagoda, all these, besides others, subsequently purchased by plaintiff's father, were actually dependent upon him for subsistence.

The above-mentioned deeds of slavery were registered in conformity with the provisions of Regulation XVII. of 1802 on 13th April 1809—certificates to that effect were granted.

Plaintiff's sister Nagamaul died in the course of the year Angrasha: plaintiff's brother Menachynadum and Palancyajee, alias Kanakabeshegum died. In the year Dadoa plaintiff's father died also. Plaintiff's other brothers Palamaudy and Ramasamy died respectively in the years Ishewarah and Chitrabanoo, when plaintiff was left sole heir of all the property, personal and real, defendants were however instigated wickedly to raise possession of the land and building thereon, with the jewels, &c. The plaintiff now claims the restoration of his right to a house situated at Madura, valued at rupees 149, together with jewels valued at rupees 651, altogether rupees 800.

*Filed 2d January, 1823.*

Defendants state in answer, a denial to the truth of plaintiff's plaint, that the ground mentioned in it does not belong to plaintiff, nor do the jewels, &c. All girls born belong to the mother's not to the father's according to established custom.

Plaintiff's father's sister Nagamal, a dancing girl, in the Menauchee Covil, purchased a piece of ground with her own earnings, and being childless, adopted the sister of plaintiff, and placed her in the aforesaid Pagoda,—Nagamal the elder

\* See No. 32, para. 8, *Supra*.

† This unintelligible sentence occurs thus in the copy received by the Law Commission.

afterward died, when Nagamal the younger being also childless, purchased in Nagapen's name Pullaneyajee alias Kanakabeshegum and Allamelloomangy, and subsequently in her own name, Maunickum and Kalimootoo, these four instructed in singing and dancing were placed in the Manauchee Covil. Kalimootoo is gone into a foreign country.

On the west side of the disputed ground, Nagamal having built a house, died; then the funeral rites were performed by Allamelloomangy, Manikum, and Kanakabeshegum, and to this day the usual ceremonies are continued by Allamelloomangy. Kanakabeshegum being barren, purchased 3d defendant Allagamootoo. Nagapen by his will particularizes and confirms the statement of defendants. Joyamoganom disappointed at a decision against her had falsely set on foot this complaint.

*Filed 18th February, 1823.*

Plaintiff in his reply affirms the truth of his plaint, and denies that of defendants—asserts the will to be a forgery, and offers to submit the question to the test of an oath.

*Filed 22d February, 1823.*

Defendants in their rejoinder, maintain the correctness of their answer, and claim to prove it by the testimony of witnesses and documents, not simply upon an oath.

*Filed 29th February, 1823.*

Plaintiff's documents, two bonds of servitude or slave deeds. The one dated 5th Viasy of the year Sadarana—the other 22d Tye of the year Sardana.

Defendant's documents, 1st, an *attachy* from all the dancing girls, dated 15th November 1822,—2d, a will said to be by Nagapen, dated 29th Pungooni in the year Joah. Plaintiff's witnesses (1) Muttoocaropen (2) Soobarayapillay (3) Catty and (4) Marimootoo. Defendants witnesses (1) Camauchy (2) Maurimootoo (3) Amuchellum and (4) Vyraven.

The Court having perused the Plaint, answer, reply and rejoinder, plaintiff's motion, considered the documents and heard the evidence on both sides, is of opinion, that the two bonds of servitude or slave deeds filed by plaintiff, prove plaintiff's claim upon the three defendants in right of his father Nagapen deceased as sole surviving heir. The 1st deed is dated on the 5th of the month Viasy in the year Sadarana. The 2d on the 22d of the month Tye in the year Sadarana, setting forth respectively the purchase by plaintiff's father Nagapen of Palaneyae alias Kanakasheegum and Allamelloomangy with their issue for ever. The 2d defendant Mothooruthemun as daughter to the 1st defendant Allamelloomangy and 3d defendant Allagamootoo, says, she was purchased by Kanakasheegum deceased, which is a contradiction; her slavery according to the terms of the 1st of the aforesaid bond, makes her incapable of acquiring property for herself and raises a presumption very strong in Allagamootoo's being the property of plaintiffs. The Court is also of opinion that the documents filed by defendants, and said to be the will of plaintiff's father Nagapen, is not credible for the following reasons. 1st, because the testator therein is said to acknowledge himself devoid of all right and titles to any part of the property in litigation, and calls himself in effect a servant to the defendants. 2dly, because it makes the testator say, that the three slaves called Allamelloomangy, Manickum Anallagmootoo are co-heiresses to the property of Nagamal, the younger (said by defendant to be the adopted daughter of Nagamal

the elder plaintiff's father's sister) without shewing that Nagamal the younger had adopted, or otherwise constituted these three slaves aforesaid to be her true and lawful heiresses to her property. 3rdly, because of the improbability of the testators, four year subsequent to the death of Nagamal the younger, and while the abovementioned slave deeds were in the testator's possession against Pullaneyajee alias Kanakasheegum and Allamelloomangy, having disannulled these said deeds to the prejudice and loss of his own sons, by affirming in his last will and testament, that the two slaves already mentioned, were purchased for the said Nagamal the younger in his name.

The Court is further of opinion, that the adoption of Nagamal the younger, by Nagamal the elder, is not proved—nor is it proved, that the first mentioned Nagamal purchased the two slaves in her own name called Manickum and Kalimoottoo, and if it had been proved, how would the assertion of defendants be proved as to this Nagamal having purchased in plaintiff's father's name, Palanceyajee alias Kanakasheegum, and Allamelloomangy. This assertion rests only upon the documents termed Nagapen's will which the Court for the foregoing reasons disbelieves plaintiff's claim upon defendants; consequently in the judgment of the Court, plaintiff's claim is proved, with the exception of the jewels. Plaintiff's motion for submitting the question of the will's legality to the Hindoo Law Officer is, by the Court's disbelief of that instrument's validity, obviated. The Court considers plaintiff's claim to the persons and services of the three slaves, Allamelloomangy, Moottooruthenums and Allagamoottoo established, together with his claim to the house situated in the Fort of Madura, in the street of Kavelcoodom, bounded on the north by the house of Maradanaigapillay and Shevasangarampillay, on the south by the house of Gaparattoomeena, on the east by the house of Marimoottoo, and on the west by Terooyanasammanda Pandaroom's Muddaun.

Plaintiff, having decreed to him the persons of defendants, is considered by Court amenable to all Court charges both of prosecution and defence, and the Court therefore adjudges plaintiff to pay the same.

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*Decree translated by the Assistant Judge\* of the Auxiliary Court  
of Zillah Tinnivelly, with his report dated 15th May 1836.*

No. 49.

*Nellanyumballam, District Munsiff's, No. 334 of 1832, Auxiliary Court's Original  
Suit, No. 59 of ditto.*

Tinnive  
Auxilia

(<sup>1</sup>)MOOTTURVILUPILLAY, (<sup>2</sup>)AURUMUGUM-  
PILLAY, alias NYNAPILLAY, (<sup>3</sup>)COOTALALIN-  
GUMPILLAY, (<sup>4</sup>)LECHUMEY, widow of CHEDAM-  
BRAMPILLAY, (<sup>5</sup>)her minor son SUNMUGAVALAYN-  
DOM of PALAMCOTTAH. The 1st plaintiff since being  
dead—the suit is conducted by the rest as his heirs.

Plaintiffs.

*versus*

(<sup>1</sup>)MOOTTACHEE, (<sup>2</sup>)SOBOOMONEYAPILLAY,  
(<sup>3</sup>)CARUPPAPILLAY, (<sup>4</sup>)CHOKALINGUMPILLAY,  
(<sup>5</sup>)GUNABADY KARCUMPERMAULPILLAY of  
RANDAPUROM.

Defendants.

It is set forth in the plaint instituted by plaintiffs' vakeel in the Munsiff's Cutcherry,—that on the 9th Vyasee 1,000, Aundoo Chedambranaudapillay, husband of the 1st uncle of the 2d, and 3d, elder brother of the 4th and grand-father of the 5th defendants, received 50 Cully Chuckrums from Chedambrampillay, and executed a bond on plain Cadjaun, mortgaging  $1\frac{1}{2}$  cottah seed of Nunjah, and 10 Mercauls and  $2\frac{1}{4}$  measure seed of Nunjamailpunja, and  $27\frac{1}{10}$  chains of Poonja lands, and 101 Palmira trees, &c., situated at Paupanculom and Anendavalenthoolavady as per Ayakut account, and two men and three women slaves, and engaging to pay the principal and interest at 12 per cent. on the 30th Mausy 1007 Aundoo, or in failure thereof, the plaintiffs might take possession of the above said lands, &c. as if they were sold to them for 93 Chuckrums, which becomes due until the term limited in the mortgage bond,—that the mortgagee Chedambrampillay and the mortgager Chedrambranadapillay died before the expiration of the term stated in the mortgage bond;—and that plaintiffs and defendants being heirs of the mortgagee and mortgager, plaintiffs sue the defendants for obtaining possession of  $1\frac{1}{2}$  cottah seed of Mulgoozarry Nunja, and  $27\frac{1}{10}$  chains of Poonja lands, paying an annual kist rupees seventy-five to Sirkar, and 101 Palmira trees valued at rupees twelve eight annas, and all Samadayams situated at Pappauculom, together with 10 Mercauls and  $2\frac{1}{4}$  measures of Nunjamailpunja lands, and all Samadayams appertaining thereto at Anendavalenthoolavady, as well as a man slave worth of rupees ten, a woman slave worth rupees seven, her son worth rupees four, Para Poodeyavan worth rupees nineteen, Parachy Parbady worth rupees seven, and damages, rupees 67-7-1-9.

The 5th defendant filed an answer in the Munsiff's Cutcherry on the 13th November 1832 in behalf of himself, and as vakeel to 1st and 4th defendants, acknowledging fully the claim set forth in the plaint.

The 2d and 3rd defendants filed an answer in the Sudr Ameen's Court on the 20th February 1833, stating that plaintiffs had promised to remit the sum sued for as damages, and confessing all other particulars set forth in the plaint.

\* See No. 33 *Supra*.

Reply was filed on the 18th March 1832, but no rejoinder was given.

The defendants having acknowledged the truth of the plaint, the examination of witnesses was dispensed with as unnecessary, and the plaintiffs were ordered to produce only their documents.

The Sudr Ameen having attentively perused the whole record held in this case, is of opinion, that defendants are answerable for plaintiffs' claim because they (the defendants) confess the bond marked B to have been executed by the mortgager Chedambranadapillay to the mortgagee Chedambrampillay. But plaintiffs' claim for damages on the property, which became as valid as a sale in failure of redeeming it at the fixed term, is overrated: and as it is declared by the Regulations, that interest exceeding 12 per cent. on money transactions, &c. is illegal, and the general custom of the Provinces gives sanction to the above Regulation,—a mortgage which becomes a sale on failure of compliance with its terms, cannot be held to be a legal act.

Under these circumstances the Sudr Ameen decrees, that defendants should either pay the plaintiffs rupees 206-6-3-13, both principal and interest, (as prescribed in the Regulations) on the land, &c., claimed by plaintiffs, together with the costs of the suit within 30 days from the date of the decree, as well as paying their own costs of the suit.

(Signed) BUDDER ALLUM, *Sudr Ameen.*

No. 50. *Document\* B transmitted with the report of the Assistant Judge of Zillah Tinnivelly, dated 15th May, 1836.*

#### TO THE NAZIR OF THE AUXILIARY COURT.

As defendant has not paid the sum of Rupees 18-15-7-82, being the remainder of the amount due under the decree passed in this suit, an order was issued to dispose of his property (already attached) by public auction. But no offer having been made for the above property, you are hereby directed to affix one of the two proclamations accompanying, on the wall of the Court-house, and the other in some conspicuous part of the village in which the Pariah slaves reside. You will also—give notice of the same in the Talook Cusbah and other villages, and sell the property by auction before this Court within the specified time, and collect the amount and deposit it in the Court's Treasury, in order that it may be paid to plaintiff,—and make return to this precept on or before the 27th of this month.

#### RETURN.

According to the tenor of the foregoing precept, Palany, Court peon, has collected Rupees eleven, six annas, being the amount of the within described property disposed of by public auction before the Court, and it has been deposited in the Court Treasury in due form.

One of the two proclamations was affixed on the wall of the Court-house, and the other on the front wall of Pulliarcovil at Seethapurpanulloor, in the Sharun-

\* See No. 33 *Supra*,

madavy Talook. On the 22d January, the garden, ground, and man slaves were put up before the Court and sold to the highest bidder, namely, Nelacunda Moodliar who purchased the slaves for Rupees ten, twelve annas, and the ground and garden for ten annas, and the total amount of Rupees eleven, six annas, has been duly paid into the Treasury of the Court, and the shroff's signature in this precept taken in attestation.

(Signed) RAMASAMY NAIG, *Nazir's Gomashta.*

*Translated Extract of Proceedings of Auxiliary Court at Tinnivelly, dated 7th February, 1834.*

Read Return made by Nazir of the Court, stating, that Rupees eleven, six annas, being the amount of the property sold by public auction before the Court, has been paid into the Treasury of the Court.

Ordered, that the said Return and attachés be filed.

(Signed) G. SPARKES, *Acting Assistant Judge.*

*Four Decrees transmitted by Judge of Combaconum, dated 20th January, 1836.*

Nos. 51 to 54.

*Copy of the Decree\* on the Appeal from the decision of the Zillah Court of Trichinopoly, No. 23.*

No. 51.  
Southern Provincial Court  
of Appeal.  
No. of Register 39, or  
No. 3 in the New Register  
for 1809.

ARNACHELLUMPILAY, Appellant,

*versus*

MAROODANAIGOM, Respondent.

The Provincial Court having attentively perused and considered the record of the proceedings in this suit in the Zillah Court, as well as the petition of appeal, answer, reply and rejoinder, are of opinion, that the decree passed in favor of Maroodanaigom ought to be reversed.

The Court on referring to the petition of the plaintiff to the Zillah Judge, observe, that according to his own statement, the amount of his disbursements for the original advance on the 15½ Cawnies of land, and for his advance for the four Pullers, and for the expenses incurred by him for putting the land into a productive state of cultivation, did not exceed the sum of five hundred and sixty-three rupees.

The Court are at a loss to conceive under what plea of justice Maroodanaigom has a claim to other compensation than that of receiving back the full amount advanced by him on a temporary mortgage, together with such interest as may be due on the advances so made by him, and in this view of the case the Court do therefore direct, that the decree passed by the Zillah Judge be annulled, and

\* *Vide No. 34 Supra.*

Aroonachellapillay be put in possession of the aforementioned land and Pullers, and that the appellant do recover from the respondent the costs of suit paid by him in the Zillah Court amounting to 47 Star Pagodas, 40 Fanams, and 35 Cash, together with Rupees ninety-four and half, being the Government fees paid by the appellant in the Provincial Court under the XVII. Regulation of A. D. 1808; and half rupee being the Government fees paid by the appellant for a reply,—in all, Government fees ninety-five Rupees, and that the respondent do pay the costs of appeal.

No. 52. *Translate of a Decree\* passed in Suit No. 1747 on the file of the Zillah Court of Trichinopoly, by the Moofsty Sudr Ameen attached to it.*

16th April, 1807.

The petition of plaint presented by Mokaideen Saib against Pulla Mootu-veerun on the 29th of August 1811, stating, that the defendant and his wife valued at rupees eighteen and half, and his son and daughter valued at rupees six, in all rupees twenty-four and half, should be mancipated to him the plaintiff as slaves and perform his rural labor, was admitted in the Adawlut Court of the Zillah of Trichinopoly on the 13th of November of the same year.

The defendant having failed to attend pursuant to the requisition of the notice, the cause has been tried under Section XIII. Regulation III. of 1802.

Upon a consideration of the plaint, the bond executed by the defendant's father-in-law named Venitetan on the 26th of Audy, year Ratchasa, or 7th August 1795, mancipating to the plaintiff, the defendant and his wife, for a sum of eighteen and half rupees, and the testimony of the plaintiff's witnesses Jyempermalpillay, Moottoo Caroopen, and Pulla Poojarree Moopen,—the Sudr Ameen is of opinion from the depositions,—that conformably to the usage of the country and of the caste of Pullers, the defendant's father-in-law had delivered to the plaintiff, the defendant and his wife as slaves for eighteen and half Rupees, and received the money,—that ever since, both the defendant and his wife performed their duties under him as agrestical laborers,—but that sometime ago they deserted him, and thereby impeded his agricultural business.

Wherefore it is adjudged, that the defendant and his wife should be the plaintiff's slaves as well as their posterity, perform his agricultural labors, and receive the allowances due to them; and it is further adjudged, that the defendant should pay Fanams 7, and Cash 70, a moiety of the fees due to the pleader Vencata Row, Rupees three, six annas, thirty-four gundas, the amount paid by the plaintiff into the Zillah Court, retaining fee Fanams 3 and Cash 17, batta on summons for the plaintiff's witnesses Fanams 6 and 60. The costs should be immediately paid under Regulation X. of 1802, and Regulations IV. and V. of 1808.

Given under my hand and the seal of the Sudr Amin's Court, on the 15th January, 1812.

(Signed) NOOR ALLEE, *Sudr Amin.*

(A true Copy.)

(Signed) F. M. LEWIN, *Judge.*

*Translate of a Decree passed in Suit No. 90\* on the Register of the Zillah Court of Trichinopoly by the Zillah Judge.* No. 53.

A petition of plaint was preferred to the Court on the 26th February 1807, by Mauruppa Moodely against Rungien, claiming Star Pagodas 52-27-66, due upon 3 bonds, including interest.

The Court having considered the plaint, answer, and the documents dated 3rd Viasy, year Krodana or 14th May 1805, 29th of the same month or 9th June 1805 and 23d Viasy, year Ructachy or 3d June 1804, as well as a motion presented by the defendant, deems it proper to refrain from enforcing the conditions of the first document, because the Court think, that the plaintiff's recovering the principal and interest due thereon will suffice.

It is therefore awarded, that the plaintiff should recover from the defendant Star Pagodas 53-43-40, being the amount of the first two items, including interest at 12 per cent, from 3rd and 9th Viasy, year Krodana, or 14th May and 9th June, 1805; that as the plaintiff failed to specify the date on which he paid Soobary Moodely Portnovo Pagodas 30, and that on which he received Chuckrums 47 from the defendant, he the defendant should pay him 26 Chuckrums without interest. It is likewise adjudged, that the defendant should pay the pleader Ramasawmy Naick his fee, Star Pagoda 1-25-40 under Clause 2, Section 8, Regulation X. A. D. 1802, and under Section 12 of the same Regulation—retaining fee paid by the plaintiff, Fanams 3-17 and batta for the process peon, Fanams 2 and cash 36. In all, Star Pagodas 64-14-53: this should be immediately paid.

Given under my hand and the seal of the Court, in the Court House at Trichinopoly, on the 16th April 1807.

(Signed) R. II. LATHOM, Judge.

*Decree passed by the late Zillah Court of Trichinopoly, in O. S. No. 223.\** No. 54.

The plaintiff Vydelingien presented a petition to the Court on the 23d May 1807, claiming 110 Pagodas as damages from Soondraswara Deetchater on account of the loss of 87½ in the village of Nungapoorem. 7th June, 1808.

On the 6th of August last, the plaintiff expressed his desire of withdrawing the suit for the reasons assigned in his motion. In consideration of this motion and of the negligence unaccounted for on the part of the plaintiff to conduct the suit notwithstanding his having been allowed a space of time on that account on a motion presented by him on the 27th October last, the Court deem it proper to strike off the suit from the file under the provisions of Section XII. Regulation III. A. D. 1802. The fees due to the plaintiff's pleader Ramasawmy Jeyengar, namely, 2 Pagodas, 33 Fanams and 40 Cash for the amount claimed, namely, rupees

\* These two decrees are mentioned by the Judge of Combaconum in his report (vide Supra No. 34) This shews their relevancy to slavery not obvious from the decrees.



three hundred and eighty-five, under the provisions of Clauses 2d and 12th, Section 8, Regulation X. of 1802 are payable by the plaintiff. He is also to pay the defendant's pleader's fees, Fanams 3 and Cash 17.

Given under my hand and the seal of the Court at Trichinopoly, on the 7th June 1808.

(Signed) R. H. LATHOM, *Judge.*

## WESTERN DIVISION.

No. 55.

Tellicherry. *Report of the First and Third Judges of the Provincial Court, Western Division, dated 4th December, 1826, in answer to a letter of the Register to the Foujdaree Udalt, Fort St. George, dated 3rd March, 1826.*

With reference to the Deputy Register's letter of the 3rd of March 1826, the Judges have the honor to submit reports received from the Criminal Judges and Magistrates in the Zillahs of Canara and Malabar, but, previous to recording their sentiments, propose entering in to a short detail on the customs prevailing, having reference to Slavery in those Provinces.

2. In these Provinces there exist at present 18 different castes of slaves, 13 of which, namely; 1. Kulladee Kunnakun,—2. Yarlan,—3. Punniar,—4. Parayen,—5. Numboo Vettoowan,—6. Konyalun Koorumar,—7. Nattalan,—8. Malayen,—9. Koorumbar,—10. Panni Malayen,—11. Adian,—12. Moopen,—and 13. Naiken,—observe the Makatayam or inheritance by sons, to the rights of their fathers—whereas the remaining five:—14. Poleyan,—15. Walooven,—16. Ooradee,—17. Karimballen,—and 18 Mavilan—observe the Maroomakatayam, or inheritnace by sons, to the rights of their mothers. But in all castes, excepting the Poleyan (No. 14) the female on her marriage accompanies her husband, with whom she continues to reside, neither can her master demand her return, unless she be repudiated from her husband,—and as regards the Poleyan (14th) the prevailing customs in the Talooks of Chowghaut, Kootnaad, Ernaad, and Betutnaad are, that the husband should reside in the house of his wife.

Temulporam.

No compensation is demanded from the master of the male slave in this district, the castes are Kunnakun (1) and Parayen (4) and with this exception, females are purchased and given in wedlock by the masters of the male slave, but this custom does not appear to exist in other districts; where it is usual for the male slave to present to the owner of the female a few fanams, and some trifling articles in value, from 2 to 3 fanams, and obtain his permission when the female after her marriage works for her husband's master, all issue going to the male master's slave. The male Poleyan, (14) although he resides at the house of his wife, goes daily to work for his own master—neither can the owner of the wife, in any way, command his services.

In these Talooks however, the female slaves are allowed to go and live with their husbands and work for their masters.

Cavay,  
Chericut,  
Cotiote and  
Courtensad.  
Koorumbranaud.

In this Talook, the male merely presents the owner of the female slave with 2 fanams and obtains permission to marry. The first born goes to the male's master, but should there be no more, a valuation is put upon the one; and the amount divided.

In this district the male presents 2 fanams as Bettapanam, and 5 as Tambooran, when the owner allows of her going and living with her husband.

Calicut.

Here no sanction is requisite, the male merely makes the accustomed present to the female's master, when the female removes as his wife, and all the issue go to the owner of the male.

Shernaud.

In this district there are 3 castes of slaves, the Kunnakun, (1) Yarlan (2) and Poleyan, (14)—the custom observed by the two former are for the male, after marriage, to bring his wife to the estates of his master who has a right to her services until she be divorced. No compensation is made to the owner of the female, and all the issue go to the master of the male slaves—and of the latter to form a connection, or marry the female of another master, and frequent her house when the issue (if there be any) by such contract, goes to the owner of the female.

Ernaud.

Here, slaves with the exception of the Poleyan, (14) present the owner of the female, with a bundle of beetle leaves and 4 sooparee nuts, observing the rules of Maroomakatayam, bringing their wives to their master's estates, and to which the owners of females have not the power to object—those of the Poleyan reside at the house of his wife.

Belutnaud.

In this Talook, there are 5 different castes of slaves, the Kunnakan, (1) Yarlan, (2) Parayen, (4) Nunboo Vettowan, (5) and Poleyan, (14)—the four first marry females of different masters, giving him a present of two fanams, and bring away their wives to their master's estates; all issue going to the master of the male slave but not so with the latter, who is only allowed to frequent the house of the female slave, his wife.

Chowghaut.

Here there are four castes, Kunnakun, (1) Yarlan, (2) Parayen (4) and Poleyan, (14) where the same customs are observed as in Chowghaut.

Kootnaud.

In these Talooks, it is not necessary to obtain previous sanction from the owner of the female. In the two first Talooks, the issue goes to the master of the male slave, but in the latter, a valuation is put upon the offspring, and the amount divided between the owners of the male and female slaves.

Nuddoogannad.  
Palghaut and  
Wynaad.

It is not in this Talook necessary to obtain permission. All children begotten after marriage go to the owner of the male. Those born before, as also, after the husband's death, go to the owner of the female. The Poleyan who observes the rule of Maroomakatayam, is not in the habits of marrying.

Waloowanaad.

3. The offspring of a female slave, who observes the Makatayam, begotten before marriage, becomes the property of her owner—but those born in wedlock, belong to the husband's master—but the mother after the death of her husband, becomes the property of her former owner, and there is nothing prohibiting her marrying a second time, but if any disputes arise, such are adjusted by the relatives of her first husband. Neither is it in the power of the relatives of a male or female to prevent a second marriage; and again the issue of a slave who observes the Maroomakatayam, becomes the property of the female's owner.

4. There can, therefore, scarcely exist a doubt, but that a custom so generally acknowledged, understood and mutually sanctioned, is by usage considered, and

has amongst themselves from habit, become in a great measure obligatory; custom and not right appear to regulate or define the treatment of slaves as tolerated within the Provinces of Malabar and Canara. Hence, to legislate on the subject would perhaps prove, neither beneficial to the master, the slave, or the state. The Judges would therefore beg leave to suggest, that the Magistrates be directed to issue a proclamation in each Talook, enjoining the owners of slaves, invariably to conform to the established rules at present observable with respect to their slaves, and which is all, that would appear to be necessary whilst slavery is any way tolerated, and with which perhaps it would be impolitic to interfere,—pointing out the protection which the existing laws afford in the redress of all well founded complaints for acts amounting to cruelty, at all times obtainable by application to the authorities, entrusted with the due administration of impartial justice.

No. 56. *Reports of Judges and Magistrates of Western Division upon the same subject, transmitted by the Provincial Court, 4th December, 1826.*

J. VAUGHAN, JUDGE OF CANARA.

14th April, 1826.

Agreeably to the request made in the letter from your office under date the 8th ultimo, I have the honor to state, the information which I have been able to collect on the subject of the usages regarding slaves therein referred to.

The male and female married slaves are always allowed to live together by their respective masters. The custom of the female living at the houses of their respective husbands is general; that of the males living at the houses of their wives is not so frequent.

The females living at the houses of their husbands are employed to work by the masters of the latter, and the usual allowance on that account is paid by them to the masters of the female slaves, and vice versâ, when the male slaves are employed by the masters of the female slaves. In some parts of the country where the houses of the husband and wife happen to be in the same village, the wife and husband work at the houses of their respective masters, and after the work is over, the female goes to the house of her husband, or the husband to her house. The masters of the female or male slaves cannot object to their living together, and the former has no reason to do so, since the children which she produces are the property of *her* master. The people questioned on this subject, have stated the above, not as being known right, but as the prevailing custom.

No. 57.

*F. Holland, Judge, Malabar.*

3rd July, 1826.

I have the honor of acknowledging the receipt of your letter of the 26th ultimo, calling for an answer to that of the 18th March last, in which my sentiments were requested as to the existence or non-existence of an obligation on the part of owners of slaves to allow the married males and females to live together.

The situation of a Zillah Criminal Judge affords inadequate means for the extended enquiry requisite for grounding a certain opinion to the above point. I however enclose copy of a paper of answers given to questions proposed to four persons bearing the highest character in the neighbourhood of Calicut for knowledge in the customs of the country and in matters of caste.

Their statement would lead to the conclusion that slave owners are obliged to allow their married slaves to live together, if present established custom can be considered to have the force of obligation.

I have reason to believe from what fell under my observation while employed in the Revenue and Police Departments,—that the customs appertaining to the state of slavery, as well as the condition and value of slaves, vary considerably in various parts of the province, and that probably no one person, European or Native, is at present competent to give a full and accurate account of them.

I have heard it said, that the females of the Kanaka and Erala castes of Chermas were previously to our acquisition of Malabar, considered as exempted from the bondage in which their male caste fellows were, and are held. I doubt, that this usage is allowed by slave owners to exist at present any where in South Malabar, but as it bears materially on the point now under discussion, I allude to it as matter for enquiry, if any general interference at all by Government be considered expedient, in view to the prevention of any aggravation of the evils of slavery in the Province, while subject to the English dominion.

*J. Babington, Magistrate, Canara.*

No. 58.

2. I have done every thing in my power to ascertain what has been and is the custom of Canara in respect to the treatment of slaves by their masters, and the respective rights of each, and shall now state the result of my enquiries into this subject, premising it by some general observations on the nature of slavery in the district, and the origin of some of this race of men in Canara.

1st June, 1820.

3. Besides the *Dhiers* or slaves by birth and caste, there are others in Canara who have become slaves from various causes, such as, being sold as slaves by the former Government, the Gooroos or Parents being born as slaves so sold, captives taken in war, persons selling themselves in payment of debts, or disposing of themselves to others, as a stake at play, or for food to support life in a time of scarcity, for love for the female slave of another, and for various other reasons, being sold, or selling themselves as slaves, either permanently, or for a stipulated time. Of this description of bondmen there are about 4,500 in Canara. They seldom or never marry according to the strict meaning of the term. No ceremony takes place either religious or civil. They live in a state of concubinage, and are generally faithful to each other.

4. When a male and female of this class agree to live together, they inform their masters of the agreement, and solicit their sanction to it. If the latter consent, the owner of the man agrees, in some cases, with the master of the woman for her purchase, or vice versa, the master of the female agrees to purchase the male; in others they are allowed to live together without a change of property in either. In the former case both the slaves live together in the house of the purchaser, and their offspring becomes his slaves likewise. Where no purchase of

\* *Note.*—The extent of these compensations is not defined by custom. It is considered to be a voluntary offering, and consists either of money, fruit or vegetables according to the ability or inclination of the donor.

either party is made, and the two slaves live together by the permission of their masters, if the man live at the house of the woman's master, it is usual for him to make his master some compensation for the loss of his services,—when the woman lives in the house of the man's owner, she makes a similar compensation\* as a token of her subjection to her master. This arrangement is not of frequent occurrence, and only takes place when their masters live at a distance from each other, when this is not the case they visit each other at leisure hours, and are ready at their respective masters' house at the usual time, to begin their daily labor.

5. In the first case I have noticed, that is, where both parties belong to the same owner, by his purchasing one or the other, the offspring of the connexion is the property of the owner; in the other, where the male and female belong to different masters, the children universally go to the owner of the woman. In both cases, the parents and children are the absolute property of the master, who can sell or dispose of them as he pleases.

6. The Dhers, or slaves by birth and caste, are laborers on the soil, and the custom of the country with respect to them, differs a little from that of the class of slaves I have just noticed. There are twelve different denominations of Dhers, viz.:

1. Bhak Kadroo.
2. Kurry Meyaroo.
3. Meyaroo.
4. Buttadroo.
5. Maury Holleeroo.
6. Holleeroo.
7. Hussulleroo.
8. Goddy Nuneeroo.
9. Corrageroo.
10. Byr Holleroo.
11. Ky Pudderoo, and
12. Myleroo.

The different classes of slaves do not intermarry; in other respects their customs, rights, and privileges are the same. Of these different denominations of slaves there are about 60,000 in Canara, making with the former a total slave population of 64,500. About one half of the Dhers are the property of individuals, and can be sold with or without the estate on which they are living. The remainder are not in actual bondage: they work as day laborers on estates, and are at liberty to take service where they please. They are however in the habit of selling their children as slaves, and the latter become the absolute property of the purchaser from the day of sale.

7. The following are the rates at which slaves are generally sold in Canara, viz.

- A strong young man at twelve rupees.
- A strong young woman at sixteen „
- A boy or girl..... at four „

8. When a Dher is sold or mortgaged to another, a bill of sale or mortgage bond is passed by his original master to the purchaser or mortgagee, as a proof of the payment of the money, and a short ceremony takes place, at which the slave acknowledges his new master by exclaiming aloud "I am your slave for ever."

9. By the customs of the country the master builds his slaves a hut, and supplies all their wants. He is not however liable for debts contracted by the slave without his knowledge.

10. The daily subsistence and annual clothing of the slaves vary in some Talooks, but the following appears to be the average allowance granted to them by their owners throughout the Zillah.

To a man  $1\frac{1}{2}$  seer coarse rice per day, and one piece of cloth or cumblee per annum, not exceeding the value of three quarter rupees. To a woman  $1\frac{1}{4}$  seer of rice, 1 cloth per annum of the same value. To a boy or girl of an age to rear cattle (generally above eight years, none being granted to those under this age) three quarter seer of rice and one cloth of four cubits, worth about  $\frac{1}{2}$  rupee.

11. Besides the above subsistence and clothing, the master sometimes gives to his slave on reaping the crops, the produce of a bett land, yielding from 1 to  $1\frac{1}{2}$  morah of paddy, and sometimes allows him at the same season, to take home as much paddy as he can carry to his house at one time; and an indulgent master of a hard working slave occasionally gives him from one-eighth to half a rupee as a free gift. On occasions of festivals also, when the slaves go and prostrate themselves before their masters, it is customary for the latter to give them one cocoanut, half seer oil, one seer jagree, and one seer coarse rice. This indulgence however is entirely discretionary with the master.

12. When a master does not give his slave the regulated daily subsistence, it is usual for the latter to remonstrate with him; where this is not attended to, he gets the friends of his master, or his fellow bondmen to intercede for him; and where this proves ineffectual, he generally applies to the Circar servants, who in such case send for the master, remonstrate with him, and get him to satisfy the slave; others desert their master's service, and remain absent, until the master consents to their reasonable demands.

13. When slaves commit an offence against the customs of their own caste, the master has no right of interference, the case is decided amongst themselves. When a slave girl connects herself improperly with a male slave, she is punished by an assembly of her own people and restored to her caste.

14. The slave never had any land that he could call his own; latterly, some have rented lands from individuals, but no Wurgs appear in their names in the Circar accounts. Where the slave has planted any cocoanut, sooparee or other trees of his own, in the master's compound, the master and slave possess equal right to their produce; in some cases where the slave wishes to have the whole, the master's share in the trees is rented to him. The slave cannot either mortgage or sell these trees to others, and when he dies, his heirs enjoy this right in the same way; where there are no heirs, the right of inheritance of the trees goes to the master.

15. By the existing custom of the country, when a slave is absent from work, or attends late at duty, becomes petulant and refractory, slanders his master, quarrels and fights, steals cocoanuts, paddy or vegetable,\* casts a devil on another through animosity, feigns sickness to avoid work with his master, and hires himself elsewhere; absconds for a time, is drunk and riotous, permits his master's cattle to trespass on another's fields or garden, becomes lazy in his work, does not stand or walk at a respectful distance from Brahmins, or is guilty of other trifling faults; the master punishes him by threatening and abusing, tying his hands behind him, flogging him with switches of trees, pulling the arms backwards and knocking him with the knee in the middle of the back (called gand-goody,) confining in a room, and hand-cuffing; but no severe punishment, than these are permitted; in cases where they inflict any other more cruel punishment on any account whatever, the slave applies for redress to the Circar. Formerly the practice

\* *Note*.—This is a very common charge against a slave, and strange as it may appear, the power of committing it, is not only believed to be possessed by the slave by others, but he has himself a firm belief that he can exercise it. Nothing is more common than for a person accused of letting loose a shytaun upon another, to admit the fact and promise to remove the devil from the person possessed. They even execute bonds upon stamp paper promising to do so under a penalty of from five to fifteen rupees.

Foujdaree Udalt Circu-  
lar, 27th November, 1820.  
See No. 2. Supra.

in this respect was different; masters treated their slaves as they thought proper, and punished them frequently with great cruelty. But in consequence of a precept from the Provincial Court dated 11th December, 1820, their authority was restricted, and they were declared liable to be called to account for any barbarous treatment of their slaves, and punished as if they had committed these acts of violence on a free man.

16. When two Dhers belonging to different masters agree to marry, they carry offerings to their respective owners, consisting of pumpkins, cucumbers, calabashes and other vegetables, and thus intimate their intentions to them. When the marriage takes place, the owner of the male gives him two rupees and one morah of rice, and that of the female slave, gives her one rupee and one morah of rice, and in some cases, something more is granted; but no kind of grant whatever is made by the owners to each other. After the conclusion of the marriage, the wife lives at her husband's house, in whose owner's temporary service she is now considered to be, and is supported by him, but he has no right either to sell her, mortgage, or lend her out to others, although he may do these with the husband, she still belongs to her former master, and is obliged by the customs of the country to attend at his house twice in the year at the time of transplanting and reaping the crops, for which however, she is paid the usual daily allowance for the number of days she may work there; and in the event of non-attendance, she must indemnify him in the payment of from half to one rupee,—or from a quarter to one morah of rice; if she is unable to pay this, it is given by the owner of her husband. In case of childbirth or sickness, her former master generally defrays the expense attending it; when he cannot afford it, it is done by her new master.

17. The children born of this marriage, go to the proprietor of the woman, who can sell, mortgage, or otherwise dispose of them. The female slave continues to live at the house of her husband till she becomes old, or till his death, when she returns to spend the remainder of her life in her original owner's bondage. When one of the party is bought on the occasion of marriage, the rights of the respective owners on the parties themselves, and on the children, are determined by the specific conditions made at the time of purchase. The master is at liberty to sell the husband to one person, and the wife to another,—but in most cases, they are not thereby considered to be separated, because the masters to whom they are sold, generally allow their living together, especially the owner of the female, who permits it more readily, because, he has a right to the children she produces. The objection, when any is made, is on the part of the owner of the husband, because he is deprived of his services without any commensurate advantage. The master can also lend out his slaves and their children on hire, (called Hallmunddy Hunna) which he receives, but the daily allowance of  $1\frac{1}{2}$  seer of rice per man,  $1\frac{1}{4}$  seer per woman, and  $\frac{3}{4}$  for each boy or girl, which is also given by the person hiring them, is taken by the slaves themselves.

18. Unlike the other inhabitants, the slaves have no priests or churches. They sacrifice to, and worship the devil only. On the day of their marriage, the bridegroom gives to his bride a new cloth which she puts on, and is formally delivered into the bridegroom's hands by the elders of the caste, in the presence of the rest of the assembly, (which is the most essential part of the nuptial ceremony) after which they move out in procession, accompanied by the heads of their caste, and tomtoms, to visit their respective masters and their parents. They then partake of the marriage feast at their own houses.

19. When a male slave connects himself with a woman of another caste of slaves, he is taken by the heads of the caste to the sea-shore, or river-side, where a Cudjan shed, having seven doors, is built for the purpose; after setting fire to the shed, and when it is in a blaze, the delinquent is made to pass through all the doors in expiation of the sin, after which he is considered cleansed and is restored to his caste.

20. The Bhak-kadroo and Buttadroo classes are prohibited by their customs from carrying quadrupeds of any description, or any article having four supporters, as a burden on their heads, (it being considered derogatory to the caste) under penalty of being instantly expelled, though they may carry viler loads, such as dung, turf, &c. When necessity however obliges a person of either of these two castes to break through this custom and carry any thing having four legs, such as a cot, coach, table, chair, &c. one leg of it must be removed to enable him to take it up on his head with impunity.

21. With respect to the immediate point referred for my consideration, I am constrained to observe, that by the custom and usages of this province, there is no positive obligation imposed upon the owners of married slaves to allow them to live together when the male and female belong to different masters it is very generally done, and the master who keeps them from either living together, or visiting each other at reasonable terms, is considered to act harshly, but not illegally or unjustly; as he is admitted to have a right, to make the most of his slave's time.

22. The custom noticed by the 2d Judge, late on circuit in Canara, of the payment of half a morah of rice by a female slave annually, as an indemnification to the master for the loss of her services, must be, that alluded to in the 16th paragraph of this letter, where the female does not attend her first master at the sowing or reaping of the crops, according to mamool. I have not been able to ascertain the existence of the other obligation alluded to by Mr. Warden, of employing the husband also when a female resides in her master's house, and of the master of the latter indemnifying the owner of the former by the payment of one morah of rice annually. The practice exists, but it is not obligatory by the customs of the country. I do not however see any objections to its being made compulsory instead of optional, and I hardly think that the formality of enacting a regulation for that purpose can be necessary; any act of the legislature in this country recognizing slavery would be very unpalatable in quarters, where the necessity for its toleration is not admitted, because the nature, origin, and customs of slaves is but imperfectly known. It would also tend to induce the owners to stick up for supposed rights over the slave which are not clearly defined as matters now stand, and are exercised by sufferance as being founded on custom; the system appears to me to be dying a natural death (in Canara at least) and the enactment of a regulation on the subject, would only, I think, tend to resuscitate and perpetuate it. If legislation be necessary now, it was equally requisite in December, 1820, when the Provincial Court directed the master who treated his slave cruelly to be punished as if the latter were free, for that, although perfectly reasonable and just, was as great an infringement of the master's right, and as much unsanctioned by the custom of the country, as requiring the master to allow his married slave to live at the house of another, and the latter would be neither more opposed or considered more oppressive than the former, which has now been silently acquiesced in for nearly six years by the whole of Canara. If the Magistrate were simply instructed by an order from the Provincial Court to require the owner of a male



slave, to allow him to live with his wife's master on the former receiving the usual indemnification, it would be sufficient, I think, to establish the custom permanently, which would be another and a material step towards placing this race of beings in that situation in society which every man of common humanity must be desirous of seeing them occupy—little more in fact would be necessary, as the local authority by the exercise of a sound judgment and discretion would soon remedy the few remaining evils of their situation, without any violent rupture of the existing bond between the master and slave, the former finds it for his own advantage to treat his slave well, since he has discovered that the latter will not be forced back into his service, when he only leaves it on account of maltreatment. I have always refused interference as Magistrate on such occasions, after ascertaining the fact of oppression or ill usage by the master, and the latter has been forced in consequence, by conciliation, to induce his slave to return, the loss of his services in the mean time, acting as a wholesome lesson, to teach him the policy of kindness to his bondman; on the other hand, when a slave has quitted his master's service from any other motive than to escape violence and oppression, I have directed that he should be restored to his owner, and continue to give him the advantage of his services—there is no regulation that requires this mode of proceeding in either case, but it is consistent with the spirit of the orders of the Provincial Court of 11th December, 1820, and with humanity, and it is not, as far as I am aware, in opposition to any order of Government or other authority.

23. The Civil Courts every day decree slaves to a suitor like cattle, grain, or any other kind of property, but this must be the case wherever slavery is tolerated, and the slave is the absolute property of the master, and provided the husband, and wife, and children are sold to the same person, it matters little to whom they are transferred. Few instances occur of the families of slaves, being separated by a sale, and in these few, the new masters almost always live near, and the slaves can visit each other at leisure hours. The impolicy of separating them to a great distance, has evinced itself in the very few cases, where a separation has taken place to any great distance, by the slaves absconding from their masters repeatedly, and depriving them of their services, for a time at least, and I do not think, therefore, that there is much probability of the practice becoming more frequent; on the contrary, I think, it is much on the decline, and will soon be altogether abandoned without the interference of the legislature to put it down.

24. In concluding this subject, I have much pleasure in stating my opinion, that the present condition of the slave in Canara, is better than in any part of the world where slavery is tolerated. It is in fact as good, if not better, than that of many of the free laborers, for sick or well, the slave is supported by his master, and has always a hut to cover his head in the inclement season; his food also is wholesome, and generally sufficiently abundant. The punishment to which he is liable is not severe, or according to his ideas, disgraceful, and his work is not oppressive or beyond his strength. Instances of cruelty on the part of the master do occur, but they are only sufficiently numerous to form an exception to the general practice, and as they are now punished by the Police they are likely in future to be of still more rare occurrence.

25. The length of this address and the delay which has attended its transmission call for some apology. They have been caused by an anxious desire to put the Government in possession of the fullest information on a subject of considerable importance in itself and not otherwise likely to come before it in an authentic form.

*W. Sheffield, Acting Magistrate, Malabar.*

No. 59.

21st April, 1826.

2. In reply I beg to state, that after a particular enquiry I have ascertained beyond a doubt that in every part of this province, the usage of the country decidedly imposes upon the masters, the obligation to allow their married slaves to live together.

3. There are 18 castes of slaves, of which 13\* observe the Muckataye, or inheritance by sons to the rights of their fathers, in the remaining 5,† the Murroo-muckataye, or inheritance by sons to the rights of their mothers, obtains.

4. In all the families of the 18 castes, with the exception of the Poolyars, the female slave on her marriage leaves her own estate, and accompanies her husband, with whom she resides, and her master cannot oblige her to return to his estate unless she should survive, or be divorced from her husband.

5. With regard to the Poolyars who all observe the Marroomakatayum, the prevailing custom in the Chowghut, Kootnaad, Ernaad and Betutnaad Districts is for the husband to reside in the house of his wife; in the remaining Talooks, the wife invariably resides in her husband's house.

6. In Zemalapooram, with the exception of the Parayen and Kuanackan castes, females are purchased and given in marriage to the male slaves by their masters, but this custom does not exist any where else.

7. It is usual for the male slave to present the owner of the female on the occasion of their marriage, with a few fanams and some articles of trifling value, with which he is supplied for the purpose by his own master; but nothing more is given to the owner of the female slave.

8. The female slave while living with her husband works for the latter's master, from whom it is not customary for the owner of the former to demand compensation, nor is any thing paid to him by the master of the husband for the loss of her services; the latter is however obliged to maintain the wife as long as she resides with her husband: after his death she is sent back to her own master. The male Poolyar slave who resides at the house of his wife, goes daily to work for his own master, the owner of his wife cannot, in any manner, command his services.\*

- \*1. Kulladee Kunnakun.
- 2. Yerin Allur.
- 3. Punniur.
- 4. Parayen.
- 5. Numbho Vattooven.
- 6. Kongalun Koodummar.
- 7. Natalum.
- 8. Malayen.
- 9. Koorumbur.
- 10. Punnee Malayen.
- 11. Adian.
- 12. Moopun.
- 13. Naiken.
- †1. Poleyann.
- 2. Walooowan.
- 3. Ooratin.
- 4. Koorimpallen.
- 5. Mavillen.

\* In this letter were forwarded the replies of the Tehsildars to questions put to them by Mr. Sheffield. They have not been sent, but their substance seems to be embodied in the letter of the Provincial Court No. 55. Mr. Sheffield, likewise forwarded extract (paras. 40 et 41) from Mr. Grieve's Report dated 14th January, 1822, (*vide Slavery in India*, 1828, page 926) and Extract paras. (10, 11 and 12) from Report of the Principal Collector of Malabar to the Board of Revenue, dated 20th July, 1819, (*vide ibid* page 845.)

## WESTERN DIVISION.

No. 60.

## PROVINCIAL COURT.

22d July, 1836.

Native Judge of Sirase,  
 \* dated 9th December, 1835.  
 Magistrate of Canara,  
 14th ditto. <sup>b</sup>  
 \* Magistrate of Malabar,  
 19th ditto.  
 Acting Native Judge of  
 \* Honore, 21st ditto.  
 Judge of Canara, 27th \*  
 February and 12th March,  
 1836.  
 \* Judge of Malabar, 12th  
 May, 1836.

I am directed to forward copies of the answers received from the several officers noted in the margin on the subject of slavery as required by your letter of the 26th November last, to which are added translations of answers given by the Pundit and two of the principal ministerial servants (Hindoos) of the Provincial Court.

2. With reference to the 1st question in Mr. Millett's letter, the Judges of the Provincial Court are not aware that the Civil Courts in this Division have ever recognized in the masters of slaves any legal rights with regard to their (the slaves') property; though as respects their persons, the competency of the master to transfer the slave by sale, mortgage, or lease, according to the ancient laws and customs of the country, has, it is believed, never been disputed or doubted in these provinces.

3. To the 2d question there can be but one answer, viz. that in our Criminal Courts, any distinction between freeman and slave is unknown, and as respects the 3d the Judges know of no cases in which the Courts and Magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters.

4. With regard to the cases propounded in the last paragraph of Mr. Millett's letter, the Judges of the Provincial Court find it difficult to give any other than the general answer, that whenever a case shall occur for which no specific rule may exist, and to which neither the Hindoo nor the Mahomedan law would be applicable, the Court would, by the regulations, be bound to "act according to justice, equity, and good conscience."

5. It does not appear that in the Provincial Court, any final decree has ever been passed whereby property exclusively in slaves (that is, without reference to the land to which they belong) has been recognized or rejected; or which determined any question respecting slavery.

No. 61.

*C. R. Cotton, Magistrate of Canara.*

14th Dec., 1835.

3. In the absence of all regulations defining the privileges and rights of masters of slaves, the Magistrates of this district appear to have acted according to their own judgment in upholding or depressing the system, and though the general tendency of their proceedings has inclined somewhat more towards the latter than the former result, the state of slavery seems to be very little altered. It appears

\* See No. 66.    <sup>b</sup> No. 61.    \* No. 62.    <sup>d</sup> No. 67.    \* No. 63.    <sup>f</sup> Not printed.  
 See foot Note of No. 63.    <sup>e</sup> No. 64.

to be very much the same now that it was under the Hindoo and Mahomedan Governments. Slaves are still sold and mortgaged with or without the estate to which they may be attached; and the present relative rights, privileges, and customs of owners and slaves remain in the state, so fully detailed in one of my predecessor's letters to your Court dated 1st June 1826.\*

\* See No. 58 Mr. Babington *supra*.

4. With respect to the "protection extended to slaves against cruelty or hard usage by their masters," the Magistracy of this district appears to have made very little exception, admitting the right of slave owners to inflict punishment. The right has been allowed, but only to a very small extent. How far it may have constituted a ground for mitigation of punishment in cases brought before the higher Criminal Courts,—your own records and proceedings will shew.

5. The other points alluded to in Mr. Millett's letter have reference to the Civil law and the proceedings of the Civil Courts, on which, of course, I am not called upon to give any opinion.

#### *F. Clementson, Magistrate, Malabar.*

No. 62.

19th December, 1835.

2. The information, called for in the first question of Mr. Millett's letter, being one entirely of a civil nature, the Zillah and Assistant Judges will doubtless report thereon. I would however beg to state that, in the Revenue branch of the service the right of the slave to possess and hold land and other property, is recognized equally with that of the freeman. There are about 377 slaves who at present hold land on different tenures, paying revenue direct to Government; the sum payable by each varying from one to ninety-two rupees per annum. Any complaint of the master taking forcible possession, would receive the same attention, and meet with the same redress as the complaint of a free man.

3. In reply to the second question I beg to state, that as far as the Magistrate's jurisdiction goes, the relation of a master and slave has never been recognized as justifying acts which would otherwise be punishable, or as constituting a ground for mitigation of the punishment. Slaves complaining against their masters for acts of violence, receive equal protection with all other castes. They now readily resort to the Magistrate's Cutcherry when prompt attention is given to their complaint, and the parties offending against them immediately punished without any reference to their relative situations in life. A case in point occurred no later than the 26th of October last, when I sentenced an individual to fifteen days' imprisonment in the jail on the complaint of a female slave for illegal detention and confinement.

4. During my residence in Malabar, now upwards of three years, I have never had occasion to interfere as regards the master against the slave. Complaints have occasionally been made of the slave having deserted to a neighbouring estate, when I have invariably pointed out, that the only sure and safe way of proceeding and preventing a repetition was kind and considerate treatment which has always satisfied the parties.

5. The foregoing replies answer the third question, and shew, that no distinction is made with reference to the wrong-doer, being other than the master, both being alike subject to the same amount of punishment.

6. The points embraced in the fourth question being unconnected with the Magistrate's Department, no answer thereto is, I believe, expected from me; but with reference to the wish expressed by the Indian Law Commission of obtaining information "especially in regard to the slaves in Malabar," I think, I cannot do better than submit herewith an extract from that part of Mr. Græme's\* report which relates to the subject, as it contains the most faithful and full account of the slavery of this district ever written or published.

\* Omitted, being printed in the volume of Papers on Slavery in India, 1828.

No. 63.

*E. P. Thompson, Judge, Canara.*

27th February, 1836.

*Note by the Provincial Court.—Mr. Harris' letter is not on the records of this Court. Mr. Babington's letter was forwarded to the Foujdaree Udalt in a letter from the Provincial Court, dated 4th December, 1826.*

*See No. 58, Supra for Mr. Babington's Return.*

2. After having collected the necessary materials to answer in detail the several questions, I found so much had already been written on the subject that it would hardly be possible to add to the information already available. I beg particularly to refer to the reports of the Lionorable Mr. Harris dated 31st May 1819, and Mr. Babington's of the 1st June 1826.

3. The first question proposed by Mr. Millett has been clearly explained in these letters.

4. With regard to the first part of the second question, namely, to what extent is it the practice of the Courts and Magistrates to recognize the relation of a master and slave, as justifying acts which otherwise would be punishable, or as constituting a ground for the mitigation of the punishment,—I am not aware of any definite rule having been laid down for observance. It would be difficult to frame rules to meet all cases, and it must generally be left in a great measure to the discretion of the presiding officer whose judgment in regulating the punishment would be advantageously exercised on such occasions. In some instances it may be clearly shewn, that a breach of the peace has been committed by slaves by their masters' orders and in such cases the prisoners would be fairly entitled to some consideration. But to declare that all slaves were free from punishment when they obeyed their masters' orders would be to give the latter a band of licensed depredators. The remaining part of the second question is fully answered by Mr. Babington.

5. With respect to the third question no case has ever come under my knowledge in which less protection has been afforded to slaves than to free persons against other wrong-doers than their masters. All classes are treated the same whether bond or free.

6. I beg to enclose copies of four\* decrees regarding the purchase and sale of slaves. There are others of the same kind which, if necessary, I will also forward.

\* Mr. Thompson subsequently sent other decrees which will be found in Nos. 70 to 88, *infra*.

*R. Nelson, Judge of Malabar.*

No. 64.

12th May, 1836.

1. In accordance with your letter of the 2d December, 1835, I have the honor to transmit herewith copies or translations of 14\* final decrees relative to slaves passed by this Court and its subordinate authorities. More will be submitted if required.

I have also the honor to submit the following information.

2. The Civil Courts recognize a title in the master to transfer the person of the slave by sale, mortgage, pledge or lease. With respect to their property I am unable to refer to any precedent having never known the question agitated, but I am informed that slaves are capable of holding property, and that it descends to their heirs as with other castes.

3. In the Criminal Court, any distinction between freeman and slave is unknown, one law being applicable to all.

4. In cases not provided for by the Regulations, and where Section XVII. Regulation II. of 1802, does not sufficiently indicate the course to be pursued, it is usual to refer points of Mussulman or Hindoo law for the opinion of the Mufti or the Pundit according to Section XVII. Regulation III. of 1802. Should doubts still arise reference is made to the higher Court.

5. In regard to the cases propounded in the latter part of para. 4, it must be observed, that it is not customary to make any distinction as to the proprietary title in consequence of the caste of the master or the slave. Were a claim to be brought for the service of a slave by any other than a Mussulman or Hindoo, the legality of such title would probably become the subject of reference to the Sudr Udalut.

6. My opportunities for acquiring a knowledge of the slavery of Malabar are very confined, and my information is consequently small. I feel moreover much reluctance to incur the responsibility of asserting what is the law or usage on any particular point, lest the rights of either class should be compromised through my ignorance.

7. Civil Suits are rarely decided solely upon principle, and any principle to be permanent or generally operative must come from the Sudr Udalut. The features of all trials vary much; the amount of evidence is different in each; and thus it may happen that two suits wherein the same principle was involved, might be decided contrary to one another.

8. Further, precedents is not binding on the Courts. The decrees of one Judge may be framed upon a different principle from those of his predecessor. An injunction of the Provincial Court may change the course of procedure; which again may be set aside virtually by a subsequent order on another case; and again the course is liable to alteration by the Sudr Court.

9. It is therefore inapplicable to call any thing a principle of law in the Courts which is not laid down by the legislature or the higher judicial authority.

10. Beyond the passages quoted by the Commissioners, I know of nothing contained in the Regulations referring to the subject.

11. There is a Circular Order of the Foujdaree Court respecting the treatment of slaves, and this is, I believe, the only Circular Order on the subject.

27th November, 1820.

12. On the civil side there is an order† of the Sudr Udalut dated 12th July 1830, regarding the mode of suing for slaves.

\* See No. 69 et seq *infra*.

† N. B. This order appears to be that entered in page 405. Slavery in India, 1838.

No. 65.

*T. L. Strange, Assistant Judge and Joint Criminal Judge,  
Auxiliary Court, Malabar.*

6th August, 1836.

2. I have now the honor to transmit abstracts selected from 242 decrees\* on record, whereby rights in slaves have been decided on, as also copies of several exhibits recognized in judgments of the Courts, shewing the description of documents in use for the conveyance of such rights, and to submit my answers on the different points of enquiry contained in the letter of the Secretary to the Law Commissioners.

1st. The slaves of Malabar are such by birth and caste. They are altogether employed on agricultural pursuits. Their owners possess the same rights to dispose of them by sale, mortgage, pledge or lease as held in real property. Slaves may, and do acquire property over which their title is as absolute as that of the free classes over their property: on failure of heirs, the property of slaves escheats to their masters. These rights are secured to the people by the law of the country which is based upon the Hindoo law, and are practically recognized by the established Courts.

2d. By the Hindoo law, owners may inflict moderate corporal punishment upon their slaves for petty offences. Slaves submit to such chastisement without making complaint, the authority to decide on which if made, would be the Magistrate and not the Criminal Court. In cases of serious ill usage, masters have been punished in the Criminal Courts on the prosecution of their slaves, in the same manner as if no such connection had subsisted between them. Slaves have been punished for lawless acts committed by them in obedience to their owners, but of course in these as in all other instances, the motives of the offender and the degree of free will exercised by him have formed legitimate grounds for consideration towards mitigating the sentence. No instance within my knowledge has occurred of a Mussulman slave being brought to trial in Malabar, their number being very limited. The allowing to such slaves the advantages granted them by the Mahomedan law in Criminal matters would, I conceive, be refused by the Company's Courts under the general principles of equity which govern them in limiting their adoption of this law as their rule of guidance.

3rd. There are no cases in which the Courts afford less protection to slaves than to free persons.

4th. From what has been said above it will be seen, that the Criminal Courts make no distinction between slaves and freemen founded on their individual or relative situations. In the Civil Courts, the law recognized in Malabar is, that of the country called "*Kana*, (mortgage) *Jenma* (proprietary right,) *Mariada*," (custom or rule) before adverted to, which although founded upon the Hindoo law, is appealed to both by Hindoos and Mahomedans, and regulates all questions of property whether real, personal, or in slaves. It is not possible that the cases supposed wherein the Mahomedan and Hindoo laws may be brought into collision, should arise in Malabar. Hindoos in this district possess no other description of slaves but such as have been born from parents who are slaves by caste, and these the Mahomedan law would recognize to be in a state of slavery; and the three conditions under which persons become slaves among Mahomedans,—that of descent, of capture in war, (of unbelievers) and of voluntary sale in times of famine,—are common to the Hindoo Code.

\* See No. 103 et seq *infra*.

5th. The Courts in Malabar beyond a doubt, would be bound to admit and enforce claims to property in slaves (being such by the law of the country and not imported from foreign parts) on behalf of others than Mussulman or Hindoo claimants, and against others than Mussulman or Hindoo defendants,—upon the grounds, that such property has been acquired, not only with the tacit consent, but through the direct means and assistance of the British Government in India; in proof whereof, I submit copies of official correspondence from the Bombay Government, and the Commissioners of Malabar, received from Mr. F. C. Brown,\* of Tellicherry and Anjarakundy, who has succeeded to property in slaves purchased by his father from the Government.

\* Omitted being printed in volume of Papers on Slavery in India, 1828.

*Suyud Zee-oo-deen, Native Judge, Sirsee, (Canara.)*

No. 66.

Your letter of the 2d instant,—requesting me to submit copies of any final decrees whereby property in slaves has been recognized or rejected, or which determine any question respecting slavery,—was received to day. Since the institution of this Court, no suit of this nature has been filed nor any decree passed, but in 1832 a complaint on this subject was preferred in the Criminal Court No. 59, and a sentence passed: a copy of which is herewith forwarded.

9th December, 1835.

No. 59. ON THE CRIMINAL FILE.

ECREEYAPA, Prosecutor,

*versus*

PURDUD TIMAH and DOSS TIMAH, Prisoners.

The charge is this:—

The prisoners who are descendants of his (the prosecutor's) slaves will not stay in his house, nor attend to what he says, but are very refractory. The prisoners have admitted that they are descendants of slaves, and state, that they are willing to live with him (the prosecutor) and that they will not be refractory. They are, therefore, admonished, and being ordered to live with the prosecutor, are released.

(Signed) MEER MAHAMUD ULLEF,

*Native Criminal Judge.*

ZILLAH CANARA, }  
23D AUGUST, 1832. }



No. 67.

*Shantea, Native Judge, Honore, Zillah Canara.*

21st December, 1835.

The Native Judge of the Court at Honore in Canara, appears to have transmitted to the Provincial Court, 6 decrees respecting Dherd slaves, 2 by the former Assistant Judge, and 4 by the Sudr Ameen.

But the Judges deemed it unnecessary to forward 5 of these decrees—one of them being a dismissal for want of proof—two founded (by agreement of the plaintiffs) on the oaths of the defendants, and in the remaining two cases, landed property to which slaves were attached having been adjudged without determining any question regarding the slaves exclusively.\*

No. 68.

*Answer of the Pundit Soobramany Shastry, of the Provincial Court, Western Division.*

4th June, 1836.

The books entitled Munnoo Smrith, Puransharoyom Smrith, and Vignhaneshwaryom Smrith treat about slaves. Fifteen descriptions of slaves are mentioned in the last book and they are as follows:—1st. The offspring of a female slave (Dhansee) living in the house; 2d. Those who have been purchased; 3d. Those who have been made over as a gift; 4th. Those falling to one's share on a division of the family property; 5th. Those who have applied in time of famine to be provided with food and raiment, and who are supported accordingly; 6th. Those who mortgage their persons for money borrowed by them; 7th. Those who have been purchased by a liquidation of considerable debts due by them; 8th. Those who have been captured in war; 9th. Those who have lost a wager; 10th. Those who have consented to live as slaves; 11th. Those who have been degraded from their tribe; 12th. Those who have agreed to live as slaves for a given period; 13th. Those who have consented to live as slaves on being provided with food; 14th. Those who are enamoured with female slaves; and 15th. Those who sell their persons. The slaves in Malabar are of the 1st, 2d, and 4th descriptions above alluded to. It is stated in the aforesaid books, that the owners have a claim on the property of their slaves; that should the slaves commit any fault, they can inflict a few stripes on their backs either with a rope or a thin branch, but they cannot strike them on the forepart of their bodies; and if they do, they should be visited with the same punishment as that inflicted on thieves.

2. In Malabar, the owners dispose of their Chermars, or slaves, by sale or mortgage in the same manner as they do their landed property. These two descriptions of owners let out their slaves on rent. The renters not having any pecuniary claim on them—it is not usual for their rights to be transferred to others. Should the slaves misbehave themselves, the three descriptions of owners above referred to inflict trivial punishments on them, on which account the slaves would not prefer any complaint; but should they be subjected to a severe punishment, and should the Circar come to know of it, due notice of it would be taken. The aforesaid three descriptions of owners provide the slaves under their charge with food and raiment.

\* The remaining decree which would appear to have been transmitted to the Sudr Udalut was not forwarded to the Indian Law Commission.

Should any other person, besides the said owners, ill-treat any slaves, they or their masters are in the habit of representing it to the Circar. Previously to the acquisition of the country by the Honorable Company, and during the Government of the Rajahs, the owners used to inflict lenient punishment on their slaves but if they practiced any cruelty towards them, and if the ruling authority came to know of it, they used to investigate into it, and afford redress to the injured party. In case any other person ill-treated the slaves their masters used to represent the matter to the then authority and obtain redress for the injury. Neither before nor after the acquisition of the country by the Honorable Company has any change taken place with respect to the rules observed in the disposal of slaves by sale or otherwise.

3. The Hindoo Shasters make no mention as to what persons may, and what persons may not acquire slaves; but as the Shasters treat of slaves, it is to be inferred, that Hindoos can possess them. As several Mahomedans in Malabar are in the habit of keeping slaves it is to be concluded, that their law does not prohibit the practice.

4. As the proprietors have a right on the persons of their slaves, and the mortgagees on money advanced by them, it is usual for their respective rights to be transferred to that extent. It is stated in the abovementioned books, that masters should love their slaves as fathers do their children.

5. I possess in Kanoomund Jenm, thirty-seven slaves, inclusive of their families.

Dated 4th June, 1836, or 24th Eddavom, 1011.

(Signed) SÖOBARAMANY SHISTRY, *Pandit*.

*Answer of the Sheristadar and Malabar Moonshee of the Provincial Court, Western Division.* No. 69.

1. The proprietors in Malabar deal with their slaves in three different ways as they do with their landed property, namely, by sale, mortgage, or lease. Those that are attached to lands are transferred with the lands, but not so those that are not. Slaves are attached to the land when the title deed as well for the land as the slaves is one and the same, but where there is a distinct title deed regarding a slave, then such slave is not attached to the land. Of the three descriptions of proprietors of slaves above noticed, the renter or lessee, not having any pecuniary right in them, it is not usual for his right to be transferred. Mortgagees only transfer their slaves to their neighbours; not to strangers. Proprietors sell them in their own districts, and occasionally in other districts, to the distance of about a day's journey from their own. We have never known any instance of their having sold them in more distant places. This custom of not selling slaves in distant places has arisen from a consideration of the hardships to which they would be exposed by being parted from their relatives; but if such a sale were to be effected to meet a pressing exigency, there is nothing to invalidate it, (i. e. it would not be illegal.) The proprietors consider their slaves like any other property. It is doubtful whether among the total number of slaves in Malabar there are even 8 or 10 who possess any property. Should however a slave possess any property, his master can have no claim to it during the life time of himself and family if he has any; but such

20th May, 1836.

Transmitted by Provincial Court, dated 21 July, 1836.

slaves cannot dissipate or dispose of their property without their master's consent. The master, becomes entitled to the property of a slave only when the slave has no heir. We are not aware of any instance of a master having ever instituted a suit to recover the individual acquisition of his slave.

2. We have seen acts of masters towards their slaves, if criminally punishable, punished by the Magistrates and Criminal Courts, in the same manner as those of other people, without any distinction being made as to their relative situations; and such slaves do subsequently return to and live with their masters. Further than punishing their slaves for refusing to remain under them, or neglecting to perform the duties expected of them, or for misconduct, masters do not maliciously ill-treat them; though instances have occurred of corporal punishment inflicted on slaves for such purposes as those abovementioned, having occasioned injuries extending even to death. We have never seen any instance of a slave having prosecuted his master, where the punishment inflicted as above was trivial. Although by the Mahomedan Law some indulgence is shewn towards slaves as regards punishment in criminal matters, still as the Regulations make no distinction, they are dealt with according to those Regulations without any distinction being made; consequently they do not enjoy the privileges allowed by the Mahomedan Law.

3. With the exception of the three descriptions of proprietors alluded to in the first paragraph, no other persons ill-treat slaves; but if they do, redress is afforded to them by the Circular in the manner noticed in the said paragraph.

4. In criminal matters regarding slaves, the Magistrates and Criminal Courts follow the usual course indicated in the 2d paragraph. But in Civil Suits concerning them, the Courts proceed according to the rules observed in suits regarding landed property. As in Malabar, slaves are disposed of by sale or otherwise, agreeably to the rules laid down for the transfer of landed property, &c. as stated in the 1st paragraph. And as decrees in suits regarding landed property are passed according to the Mahomedan or Hindoo Law, as the case may be as prescribed by Clause 1st, Sec. 16, Reg. III. of 1802,—the same rule is observed as regarding suits respecting slaves. Further than the proprietor, mortgagee, or reuter suing each other regarding their rights in slaves, the latter are never parties in such suits. Although no mention is made of slaves in Clause 1st, Sec. XVI. of the said Regulation, wherein is specified the nature of suits, which should be determined agreeably to the Mahomedan or Hindoo Law,—still as in Malabar, all suits regarding slaves are for the rights, which the owners possess over them, and as their rights are, or may be involved in one or other of the various grounds of action specified in the Regulation above quoted, suits regarding slaves are disposed of in the same way. All slaves in Malabar are Hindoos, and they are always slaves, and we are not aware of any question having hitherto arisen in any suit as to the legality or otherwise of a slave, with reference to either the Mahomedan or the Hindoo law. There are but few Mahomedan slaves in Malabar who live as servants in the houses of Mahomedans, and we have never known any instance of any of them, having been publicly disposed of by sale or otherwise, or of any suit having been instituted on that account.

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*Decrees\* which accompanied Mr. Thompson's Return, to the Provincial  
Court of the Western Division.*

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APPEAL No. 41 of 1829.

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No. 70.

*Decree of Ghoolam Mahomed, Acting Sudr Ameen of the Auxiliary  
Court of Canara.*

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GANAISHA BHUTT, BY VAKEEL MANJUYA,

*versus*

HALLAIPYKE SANNANA SOOBBA.

Appellant, as plaintiff, sued respondent for the recovery of a Dher slave, named Maroo, valued at rupees sixteen, whom the respondent took into his employ, on the 5th Cartika, Shoodha of Partheva, after having agreed to pay him a rupee per mensem, exclusive of expences; as also for the recovery of rupees thirty-six, being principal and interest of his hire.

Respondent in answer states that previous to the plaintiff's purchasing Kumboo, the father of the slave in litigation, Hengadey Vencutiya purchased the latter from his proprietor; that according to a letter written by him, he served at the respondent's; and that therefore nothing is due to the appellant on account of his wages.

Appellant cited 13 witnesses and filed 5 documents, viz. 1 decree passed in cause No. 264 of 1826 filed by the respondent against the appellant for the recovery of the wages of Kumboo and his wife Soorabby, being two slaves purchased by him and which were let to the appellant for hire; 2d, another decree passed in cause No. 169 of 1827 filed by appellant against the respondent; 3rd, a Kurraur executed by Maroo, the slave in litigation, in favor of the appellant, authorizing him to receive the thirty-three rupees of his wages with interest; 4th, a Kurraur executed by the respondent's son Nagoo in favor of Nawna Bhutt; 5th, a letter written by Vencutaisha Bhutt, to the respondent's son Nagoo. Respondent cited five witnesses and produced two documents: a letter written to the respondent by Vencuta, a witness in this case, authorizing him to employ his slave Maroo, and a deed of sale executed by Naura Hegudey's son Mahabula to the respondent's witness Vencuta, on the 3rd Vyeshaka Bahoola of Pramoda, purporting that he had sold (to him) Maroo, the eldest son of his slave Kamboo. The District Moonsiff examined one witness for the appellant, two for the respondent and four for both parties, and dismissed the plaintiff's claim. Plaintiff has appealed from his decision, and the respondent made his answer.

On consideration of all the proceedings held in this case the following judgment is recorded. The respondent's suit against the appellant under No. 264, for the recovery of the wages of Kumboo, the father of the slave in litigation, as well

\* See No. 63, *Supra*.

as Soorabby who (both) had been let to the appellant at 5 fanams per male and 2½ per female, was dismissed; it having been proved by evidence that the said Kumboo had been sold to the appellant by a deed of sale under date the 10th Shrivuna Bahoola of Sreemooka. Appellant represented in that cause that as Maroo, the slave in litigation, belonged to him agreeably to the custom of Hory Minchoo (a pact regarding the marriage of a slave), he paid the expense of his breeding and got possession of him; and it was deposed on oath in that suit by Soobbiya, son of Nariyna Hegady, the owner of the slave, that his father executed a deed of sale in favor of the appellant for the slave Kumboo in the year Sreemookha. The statement of the 2d witness Vencuta that he obtained a deed of sale for the slave from the said Nariyna Hegadey's son Soobba, three years prior to Sreemooka is, it is to be extremely doubted, far from being a correct one; for if he had actually purchased the slave, he would have continued in possession of him ever since. There are therefore sufficient reasons to believe that the 2d witness has given false evidence with the expectation of acquiring a right to the slave while the parties are disputing between themselves. It has been clearly established by evidence that the first born of the above description of slaves goes to the proprietor of the male, and the children next born go to that of the female agreeably to the custom of Horyminchoo (a pact regarding the marriage of a slave.) It may be inferred from the tenor of the deed of sale, viz. that the slave was to be enjoyed in perpetuity of the family, that the sale in litigation comes within the scope of that clause, as the undermentioned circumstances will shew it. Both the appellant and respondent admit that at the period when the deed of sale was executed to the appellant for Kumboo, his son the slave in litigation was a young lad. It appears from the evidence of Hareappa Hegadey that children born of a female after her purchase, belong to the purchaser, with the exception of one born before purchase. In support of this, the 1st witness states that subsequent to the execution of the deed of sale for the slave, the appellant paid the expense attending the breeding of the slave sued for and obtained possession of him; and thus it appears that the respondent has no right whatever to him. There does not appear sufficient reason from the evidence of the 2d and 3rd witnesses who were called to prove the custom, to set aside the appellants' right. There is sufficient ground to conclude that at least from the appellants having paid the expense of breeding on the ground of the deed of sale, he has acquired a right to the slave. He should therefore enjoy him agreeably to his right and the consent of the slave; the respondent's claim to him does not appear to be just. Moreover the respondent does not deny that the slave claimed was in his house. Under these circumstances it was proper to adjudge respondent to pay appellant rupees two per annum, exclusive of expenses, as claimed in suit No. 264. The Moonsiff's decision, therefore, in favor of the respondent does not appear to be correct. It is accordingly reversed, and it is decreed that the respondent do pay to the appellant Hoon 1-3-7 for two years, eight months and five days, for which the slave served him, exclusive of expenses, and also interest fanam 1, total Hoon 1-4-7, or rupees five, twelve anas, costs to be borne by the respondent, those on sum disallowed being borne by the appellant himself.

(True Translation,)

W. HENDERSON, 3rd Judge for Register.

*Zillah Court of Canara.*

No. 71.

ORIGINAL SUIT No. 132 of 1827.

NANDAPPA SHETTY

*versus*

SOMAYA SHETTY.

Plaintiff sued to recover a land yielding Rupees 345-1-80, Rupees 43-1-80, net produce, slaves valued at sixty Rupees together, with certain other property agreeably to a deed of sale. Abstract of Plaintiff and Decree.

The defendant admitted the plaintiff's claim.

The Register, on the 16th February, 1880, decreed that the defendant do make, over to the plaintiff the property claimed, on the ground of his having owned that the deed of sale was really and truly executed.

(Signed) GEORGE SPARKES, *Register.*

*Court of Adawlut, Zillah Canara.*

No. 72.

ORIGINAL No. 6,244  
of 1812.

APPEAL No. 25  
of 1815.

PADMA COTTARY

*versus*

MARRIAPAI, and (since his  
decease) his brother CHIENNA  
VEERAIAM.

The plaintiff sued for the recovery of 45 Pagodas advanced to defendant (since dead) on the mortgage of 19 slaves. Abstract of Plaintiff and Decree.

The supplemental defendant denied the plaintiff's claim.

The Register nonsuited the plaintiff as it was proved that the deceased defendant and the supplemental one lived separately, and consequently the latter could not be answerable for agreement entered into by the former.

The plaintiff appealed.

The Judge, on the 14th May, 1817, confirmed the Register's decree for the same reasons.

(Signed) WILLIAM SHEFFIELD, *Judge.*

*Court of Adawlut, Zillah Canara.*

No. 73.

ORIGINAL No. 163  
of 1814.APPEAL No. 5  
of 1816.

NARRAINA

*versus*

NAMA BUNDARY.

Abstract of Plaintiff and  
Decree.

The plaintiff sued for the recovery of sixty-two Rupees amount of six slaves, and one hundred Rupees damages.

The defendant denied the plaintiff's claim.

The Register decreed to plaintiff the six slaves and fifty Rupees damages on the ground of the plaintiff's claim being substantiated by oral and documentary proof.

The defendant appealed.

The Judge, on the 22d May, 1817, fully coinciding in the justice of the Register's decree, confirmed the same.

(Signed) WILLIAM SHEFFIELD, *Judge.*

No. 74.

*Zillah Court of Canara.*

ORIGINAL SUIT, No. 292 of 1825.

KAIRLA WARMA,  
RAJAH,*versus*1. MALAVOOR RAMA.  
2. KAILOO.Abstract of Plaintiff and  
Decree.

The plaintiff sued for the recovery of two houses, together with lands, gardens, and Coomeries of B. Ps. 28-5-0, and fifty slaves thereunto attaching, valued at Rupees 585 due on a mortgage bond executed in his favor by the 1st defendant.

The 1st defendant admitted the plaintiff's claim in part.

The 2d defendant denied it.

The Court, on the 15th May, 1833, adjudged that all the property specified in the mortgage bond be transferred to the plaintiff on the ground of the same having been proved.

(Signed) P. GRANT, *Judge.*

*Zillah Court of Canara.*

No. 75.

ORIGINAL SUIT, No. 326 of 1828.

VENCUPPA SHETTY, *versus* GOONDAUL MOOWASA-MUNNY.

Plaintiff claims, from defendant,—a land of Hoons 27-0-9 beriz, yielding annually Rupees 191-2-0, and forming part of an estate called Goondaul of Hoons 54-1-2 beriz, Rupees 1165-2-60, value of the net produce thereof,—slaves and cattle valued at Rupees sixty-eight,—and a house, cow-house and cottighay valued at Rupees one hundred. Abstract of Plaintiff and Decree.

Defendant in his answer admits the justice of the plaintiff's claim.

The Court on the 4th July, 1829, directed that the defendant do relinquish to the plaintiff the land, slaves, cattle, house, cow-house and cottighay sued for and pay to him the value of the net produce being Rupees 1165-2-60, and also all costs of suit.

(Signed) J. VAUGHAN, *Judge.*

*Zillah Court of Canara.*

No. 76.

ORIGINAL SUIT, No. 139 of 1827.

TOMMAPPA *versus* MUNJUNNA.

The plaintiff claimed,—an estate producing Rupees 540-3-0, a garden, jungle, &c. valued at Rupees seventy,—house and out-houses valued at Rupees three hundred and eighty,—eight male and eight female slaves, with their children, valued at Rupees one hundred and sixty Rupees,—thirty paid to the Circar for kist,—and sundry articles valued at Rupees 419-1-0. Abstract of Plaintiff and Decree.

The defendant denied the plaintiff's claim.

The Assistant Judge, on the 31st December 1830, dismissed the suit as groundless.

(Signed) J. WALKER, *Assistant Judge.*



No. 77.

*Zillah Court of Canara.*

ORIGINAL SUIT No. 17 of 1831.

SOOBBUNNA

*versus*

1. MUNJOONATHA SHAN-  
BHOGUE.
2. SUNTUMMA.

Abstract of Plaintiff and  
Decree.

The plaintiff sues for,—Rupees four hundred and sixty-eight, being expenses incurred for three years and three months, a period during which she has been living separately from the defendants,—a house worth Rupees one hundred,—Rupees one hundred and seventy-five for slaves, &c.—and property yielding an annual income of Rupees one hundred and forty-four for her future subsistence.

The defendants denied the plaintiff's claim, but made no objection to the plaintiff's living with them.

The Register therefore,—on the ground of the defendants admitting that they are responsible for the plaintiff's maintenance,—decreed to the plaintiff on the 30th November, 1833, property yielding Rupees sixty per annum and a house valued at Rupees fifty or Rupees fifty for building one, together with Rupees one hundred for utensils, &c.—and disallowed the sums claimed on account of the expenses and the slaves.

(Signed) F. N. MALTBY, *Register.*

No. 78.

*Zillah Court of Canara.*

No. 171 of 1824, on ORIGINAL FILE.

DOOGAN CHOUTA

*versus*

1. SHUMKRA  
PUDDAWALLA.
2. POMMOO.

Abstract of Plaintiff and  
Decree.

Plaintiff sued defendants, for the recovery of a land producing Rupees 370-3-30, twenty slaves valued at two hundred Rupees, twenty-five cattle valued at one hundred and forty Rupees, and certain other property to which the plaintiff succeeded on account of adoption.

Defendants answered that plaintiff was not adopted.

The Court being of opinion that the right to the property on the ground of adoption was not established, dismissed the suit with all costs on the 25th July, 1828.

(Signed) J. VAUGHAN, *Judge.*

*Zillah Court of Canara.*

No. 79.

ORIGINAL SUIT, No. 22  
of 1822.

COOMARA HEGADAY

*versus*

1. APPIYA.

2. SUNKOO MULLY.

APPEAL SUIT, No. 121 of 1824.  
The same (Appellant)*versus*The same (Respondents) and on  
demise of SUNKOO MULLY, UNTA  
SHETTY and MUNJUNNA SHETTY.

The appellant sued, in the Original Suit, for thirty-seven slaves forcibly taken from him in Eeashwarra by the defendants, and Rupees five hundred and twenty for damages consequent on that proceeding. Abstract of Plaintiff and Decree.

The Register decreed, that the defendants should pay him Rupees two hundred and thirty, as the value of the slaves, and twelve mooras of rice as hire for three slaves for four years.

Against that decree this appeal was made, on the ground that the slaves should have been ordered to be delivered to him and not their value, and that Rupees one hundred per annum should have been awarded for the loss sustained by him as proved by his witnesses.

The Judge seeing no ground for altering the Register's decree as it concerns the appellant, dismissed the appeal with costs on the 30th December, 1826.

(Signed) J. VAUGHAN, *Judge.*

*Zillah Court of Canara.*

No. 80.

ORIGINAL SUIT, No. 418 of 1829.

CHERRYUMMA

*versus* 1. TOOLLOOCHERRY RAMA.  
2. CANAN.  
3. OOMMACHIA.

Plaintiff (female) sued defendants, for a Cumeri land producing six hundred and fifty-four Rupees, paddy land producing 17-1-20, gardens valued at Rupees thirty, pepper plantations valued at Rupees two hundred and fifty, and slaves valued at Rupees five hundred, being half the estate acquired by the ancestors of herself and the 2d and 3d defendants. Abstract of Plaintiff and Decree.

The 1st defendant admits the plaintiff's right in the ancestral estate, and contends for her liability to bear her share of the debt.

The 2d and 3d defendants did not answer the plaintiff.

The Assistant Judge, on the 3d February, 1832, decreed the 1st defendant to give up to the plaintiff the property claimed, or the value of it, on the ground of his (1st defendant's,) averment respecting the debt standing not proved.

(Signed) JOHN WALKER, *Assistant Judge.*

No. 81.

*Zillah Court of Canara.*

ORIGINAL SUIT, No. 1045 of 1825.

PUDDOOMA COTTARY *versus* TIMMAPPA COTTARY.

Abstract of Plaintiff and Decree.

The plaintiff sued for the recovery of Rupees one thousand, one hundred and eighty-eight, principal and interest of an Illadarwar deed given to his Uncle by the defendant, mortgaging his land of Hoons 32-7-2 beriz, with slaves, cattle, &c. for Hoons 150, or six hundred Rupees.

Defendant denied the plaintiff's claim.

A Razeenama was tendered by the defendant, and accepted by the plaintiff, in which it was stated,—that the dispute has been amicably arranged between them, and the defendant has taken back the bond,—and that in lieu of the amount sued for and costs, the defendant is to pay plaintiff Rupees five hundred and thirty, by 11 instalments; to which effect a decree was prayed for.

The Court accordingly, on the 9th September, 1828, directed the defendant to pay plaintiff Rupees five hundred and thirty, the instalments stipulated in the Razeenama.

(Signed) J. VAUGHAN, *Judge.*

No. 82.

*Zillah Court of Canara.*

ORIGINAL SUIT, No. 117 of 1826.

DEVOO CAWA

*versus*

1. DOOGGANNA DEYEE.
2. UCHOO SHETTY.
3. SUNKAMMA.
4. TIMMAPPA SHETTY.
5. CHENDYA NENDA.

Abstract of Plaintiff and Decree.

Plaintiff sued defendants, for a land with jungle producing Rupees two hundred and fifty-two, Rupees 484-0-80 net produce, Rupees two hundred and fifty, half of the value of a house, cow-house, &c. sundry cattle valued at one hundred and thirty-two Rupees, eight slaves valued at fifty Rupees, and also certain other property and certain privileges.

5th defendant alone answered the plaint, stating that plaintiff's right in the litigated property is equal to his.

The Assistant Judge, on the 3d March 1832, decreed that the defendants do surrender up to plaintiff the land and other property claimed, on the ground of the plaintiff's right not being denied.

(Signed) JOHN WALKER, *Assistant Judge.*

*Court of Adawlut, Zillah Canara.*

No. 83.

No. 196 of 1820 in CANARA FILE.

BOMAYA HEGADE      *versus*      VEERAYNAIR HEGADE.

The plaintiff sued for the recovery of a land producing Rupees 625-10, slaves valued at Rupees one hundred, and certain other property. Abstract of Plaintiff and Decree.

The defendant allowed judgment to go by default.

The Court finding the suit not tenable against the defendant alone, dismissed it with costs, on the 22d June, 1824, leaving plaintiff at liberty to prefer his claim de novo against defendant conjointly with three others.

(Signed)      WM. SHEFFIELD, *Judge.*

*Zillah Court of Canara.*

No. 84.

No. 370 of 1825 on ORIGINAL FILE.

<p>1. MOOTTUKKY, 2. RAMARYA,</p>	<p><i>versus</i></p>	<p>1. CAUMA BHUNDARY. 2. OOGGU BHUNDARY. 3. BUGGA CHOUTA. 4. DAIVOO SHEETTY. 5. DEYA UDYAUTIYA. 6. MOONDY. 7. TIMMAPPA.</p>
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The plaintiffs sued defendants for the recovery of several lands in their possession, as well as for twelve slaves, and Rupees 3,142-2-58, being produce of the lands. Abstract of Plaintiff and Decree.

It appeared to the Court, that this suit ought not to have been admitted, for it was in fact an accumulation of several distinct suits against distinct persons. The Court therefore, on the 28th June, 1829, dismissed it, and directed that the plaintiffs, if they think proper, do file separate suits accordingly.

(Signed)      J. VAUGHAN, *Judge.*

*Zillah Court of Canara.*

ORIGINAL SUIT, No. 269  
of 1830.

PUTNADA BOODNA SAIBA,  
inhabitant of Karkoll, in the Bunt-  
wall Talook, at present residing in  
the Town of Mangalore,

*versus*

GOLAUM MAHOMED SAI-  
BA, his Son ALLY SAIBA and his  
Mother JAINUBBY, residing at  
Karkoll, in the Buntwal Talook.

APPEAL SUIT, No. 114 of 1831.

GOLAUM MAHOMED SAIBA  
*Seal* *versus*  
BOODNA SAIBA.

This was a suit brought for the recovery of two slaves and Rupees seventeen and half, the balance of the value of a ring, pledged on account of Rupees two and half due in part for the said slaves.

The plaintiff respondent stated,—that the proprietors of these slaves had mortgaged them to him for Rupees ten,—that the 2d and 3d defendants afterwards purchased them, together with some others, from the proprietors,—after which he applied to the defendants to pay him the mortgage money, when they agreed that if he would pay Rupees two and half in addition to the amount of the mortgage money they would sell him the slaves. He accordingly made over to them the mortgage bond which he held and deposited on account of the money due a gold ring valued at Rupees twenty. The 1st defendant wrote him a deed of sale for the slaves and the usual ceremony of transfer was performed. They remained in his house for one year, after which the defendants took them away again and he sued accordingly for the slaves and the balance due on the ring deposited, as well as the the average amount of loss occasioned by his being deprived of their services.

The defendants denied that the slaves had been mortgaged before they purchased them, or that the plaintiff had deposited a ring with them. And they objected to the validity of a deed of sale executed by the 1st defendant alone.

The reply affirmed the truth of the plaint.

The rejoinder denied that the slaves had ever lived in the plaintiff's house.

The plaintiff filed, 1st, copy of a decree in Original Suit 72, instituted on the same subject as the present, which the Sudder Ameen dismissed on the grounds that the plaintiff sued for the value of the slaves instead of the slaves themselves.

2d. A deed of sale executed by the 1st defendant to the plaintiff selling two slaves for Rupees twelve and half, dated 1st Maugha Bahoola of Vishoo.

The defendant's Vakeel filed a stamp Wallah, purporting to be a deed of sale for ten slaves for Hoons fifteen by the former proprietors, dated 7th Shruwunna Bahoola of Vishoo.

The Sudder Ameen—considering that the defendants were responsible under the deed of sale, which the 1st defendant admits that he executed, and that the plaintiff had proved his statement that he had deposited the ring,—passed a decree awarding the slaves and Rupees seventeen and half, but disallowing the compensation sued for.

The 1st defendant appealed from the decision, repeating his statement that he had no authority to dispose of the slaves purchased by the 2d defendant and objecting to the award of the decree.

The plaintiff filed an answer.

On a perusal of the papers in the case the Court fully coincides in the opinion of the Sudr Ameen, that the defendants ought to be bound by the deed of sale executed by the 1st defendant. The vakeel employed by all of the defendants has admitted that they lived together in the same house, and the very fact of their filing a joint answer and entrusting their case to one vakeel is sufficient to render their objection null and void. The subsequent objection made by the vakeel that he only answered in behalf of one defendant is inadmissible; had the interests of his clients been different he should not have taken a joint vakalat, nor is it credible that the defendants under such circumstances would have executed such a vakalutnamah. The Court therefore laying aside this portion of the appeal, proceeds to the next objection, namely, that although the deed of sale was executed by the appellant, the money was not paid by the respondent. The amount of the deed of sale the respondent alleges was paid in two ways, 1st, by making over to the 1st defendant the mortgage bond for Rupees ten, and 2d, by pledging a jewel valued at Rupees twenty.

With reference to the first of these payments the execution of the deed of sale by the 1st defendant affords reason to believe that some equivalent was given for the slaves. But on the other hand the existence of such a mortgage is not alluded to either in the bond produced by the defendants as having been executed to them by the Moolgars; nor what is more important, in that produced by the plaintiff as having been given to him by the 1st defendant. The plaintiff has not shewn why the defendants should be answerable for a mortgage due by the Moolgars. And the only witness who deposes to having been present at the execution of the bond, contradicts the plaintiff's own statement both as to the mortgage bond and the deposit.

With reference to the second, namely, the deposit of the ring on account of Rupees two and half, the probabilities are all against the truth of the plaintiff's statement. No allusion to it is made in the bond, and the circumstance in itself is incredible, that while a document was written between the parties for slaves valued at Rupees twelve and half, none should be written for a ring valued at Rupees twenty. The evidence, too, to this point is unsatisfactory, resting only on alleged admissions and conversations, not on any positive knowledge of the transaction, and the plaintiff's statement, as above shewn, is contradicted by his own witness.

On mature consideration of the whole case, the Court is of opinion that the evidence to the plaintiff's statement is too insufficient to warrant an award in favour of the plaintiff and the decree of the pundit is reversed. But the plaintiff holding a deed of sale, which the 1st defendant admits, the Court does not see proper to award the defendants their costs, and decrees that they be borne by the parties respectively.

Given under my hand and the seal of the Court at Mangalore, this 11th day of March, A. D. 1834.

(Signed) F. N. MALTBY.

*Zillah Court of Canara.*

ORIGINAL SUIT, No. 248  
of 1830.

GOLLA MUNJEA, residing at  
Serrataudy, KONNADA MOGA-  
NY, in the Buntwal Talook, by Va-  
keel SHEIK UHMUD,

*versus*

RAMA BULLIPA, residing at  
Sandaly, POOTTIGAY MOGA-  
NY in the said Talook, and MUN-  
JOO PUDDIVALA, residing at  
Moondookur, in the Mangalore Ta-  
look, by Vakeel LINGAPA.

APPEAL SUIT, No. 89 of 1832.

MUNJEA

*versus*

RAMA BULLIPA and MUN-  
JOO PUDDIVALA, and on the  
demise of the 1st Respondent his  
younger brother DAIJOO BUL-  
LIPA, and nephews ANTUPPA  
and DEVOO, and on the demise of  
the 2d Respondent his younger  
brother TYEMPA PUDDIVALA.  
The 1st Respondent by Vakeel  
ANUNTEA.

*Seal*

The plaintiff stated that in the year Vibhava, his grandfather purchased four slaves, of whose offspring two females, Kalay and Kuckay, were married to two slaves belonging to the 1st defendant's uncle Pudmabaleepa,—the said Pudmabaleepa paying to his uncle one moora of rice annually as their hire. The 1st defendant, as manager of the house, paid the hire up to Tharana, but having since ceased to pay it, the plaintiff made a complaint before the Magistrate; and some of his slaves were delivered up to him. He sued for the remainder, namely, Eyetay and her two children, valued at Rupees twenty, together with Rupees twelve, value of nine mooras of rice, their hire since the year Parthwa.

The 1st and 2d defendants filed a joint answer, in which they denied that the Tahsildar had given the order alleged, but stated that on the contrary the plaintiff had taken forcible possession, and had evaded giving them up, though ordered by the Magisterial authorities so to do. They added that Eyetay was descended from a slave belonging to the 1st defendant's ancestor, and that the 2d defendant paid wages for her services to the first defendant.

A reply was filed by the plaintiff denying the truth of the answer.

No rejoinder was filed.

The plaintiff summoned ten, the 1st defendant six, witnesses; of whom for the plaintiff five, for the defendant three, were examined. The plaintiff's Vakeel filed a document purporting to be a deed of sale for two male and two female Dhers, under date 9th Vyeshak Bahoola of Vibhawa, (1808.)

The Sudr Ameen Moofly dismiss the plaintiff's claim, considering that the plaintiff had failed to prove, that Kalay and Kuckay had been lent to the 1st defendant on hire, or that such hire had ever been paid: and that the Dher's evidence was of no avail to the plaintiff as they had admitted that it was given at the plaintiff's suggestion.

The plaintiff appealed that his witnesses had proved the points which the Sudr Ameen considered they had not proved; and alleged that the Dhers had been induced by the questions put to them to state that they had been induced to depose in favor of the plaintiff. He objected to the Sudr Ameen Moofly having dispensed with the evidence of certain witnesses whom he considered necessary and proposed a decision on oath.

He further stated that the Sudr Ameen asserted that he had dispensed with the evidence of two witnesses, contrary to the fact.

An answer was filed by the 1st defendant.

Before proceeding to pass a decision in the suit, the Register has to observe, that there appears to be no foundation for one of the statements made in the appeal, namely, that the plaintiff had not dispensed with the evidence of certain witnesses as stated in the decree, the plaintiff's statement to that effect bears both his own and his vakeel's signature.

On perusal of the proceedings in the case and on questioning the plaintiff, it appears that the right to the Dhers now in litigation depends upon the title to the Dher Kaly, the mother of Eyetay, that the said Kaly is in the possession of the plaintiff, while Eyetay and her children are in the possession of the 1st defendant. The plaintiff states that Kaly was made over to him by the Magistrate, while the defendant declares that he obtained forcible possession. But neither party has proved his statement; nor has the defendant shewn, that he has brought any complaint against the plaintiff for forcibly possessing himself of the said Kaly. Under these circumstances, the Register considers,—that it is indispensable that the Dhers should be placed in the possession of one and the same party,—and that the plaintiff being in possession of the mother of Kaly is *prima facie* entitled to possession of her progeny,—that it was incumbent upon the defendant to disprove the plaintiff's title to Kaly, not upon the plaintiff to prove his title to her children when their mother was in his possession: and were the Register to confirm the Sudr Ameen Moofy's decree dismissing the plaintiff's suit, the defendant would still have to bring an action for recovery of the slaves now in the plaintiff's possession.

Upon due consideration of this point, the Register considers it necessary,—to amend the decree of the Sudr Ameen, which while it dismisses the plaintiff's claim to the Dhers in the possession of the defendant, does not prove the defendant's title to recover those detained whether legally or otherwise by the plaintiff,—and to decree that the defendants do make over to the plaintiff the Dhers, sued for; but that the present decree do not prevent the defendants from proving their title to those at issue and those formerly detained by the plaintiff. The decree of the Sudr Ameen is therefore cancelled; the parties are assessed with their respective costs.

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*Zillah Court of Canara.*

ORIGINAL SUIT, No. 231 of 1826.

MARLMANAY ANNAPPA                      ANUGGOPPA SHETTY'S  
SHETTY, residing at Shereare, *versus* nephew SOMAYA SHETTY, re-  
Village Kalanand Mogany in                      siding at the said place.  
Barcoor Talook.

This suit was brought by the plaintiff Annappa Shetty against the defendant Somaya Shetty, for the recovery of,—a land Rupees 305-0-70,—Rupees 58-2-70 net produce,—garden Rupees fifty,—houses Rupees fifty,—and slaves Rupees one hundred. Total Rupees 563-3-40.

The plaintiff stated,—that the defendant had sold him the above property, and executed to him a deed for the same ;—that he refuses to give him possession.

The defendant owned the execution of the bond, but said,—that he had committed a fraud upon his uncle by writing it,—that although his uncle had formerly made over to him the whole of the property,—yet that before the execution of the bond he delivered it all back to his uncle.

The Court having perused the pleadings recorded that the defendant must prove that he ever delivered the land back to his uncle.

The defendant called no witnesses and adduced no evidence to that effect.

The Court do, therefore, decree that the defendant do forthwith give up, the land and other property claimed, to the plaintiff and do pay all costs.

Given under my hand and the seal of the Court at Mangalore, this 4th day of February, Anno Domini 1830.

(Signed)      GEORGE SPARKES, *Register.*

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*Court of Adawlut, Zillah Canara.*

No. 68.

No. 365 of 1820 ON CANARA FILE.

PAUKEE TUMBARATEE                      NONANKAL KRISTNA  
and AKOO TUMBARATEE of *versus* WURMA ARSOO, of the same  
Nelashawar, in the Talook of                      place, Defendant.  
Bekul, Plaintiffs.

This suit was instituted for the recovery of,—lands and gardens yielding Rupees 803-0-61 annually,—and Rupees 1,334-0-36 being the value of the produce thereof,—as also Rupees 10-1-64, on account of Achoo Pulsay,—Rupees 34-1-60, being value of paddy due for the hire of slaves,—Rupees 26-2-93 being the emoluments of Mellame Calapene,—and cattle and slaves valued Rupees 141-0-66.

The answer, reply and rejoinder were filed.

The following exhibits were filed by defendant.

*(Details omitted)*

The undermentioned witnesses were examined.

*(List of names omitted)*

In this stage of the business, the vakceels of the parties filed the razinama marked X, stating that their clients have fully concurred in the whole of the terms therein specified and prayed that a decision might be passed accordingly. The razinama is to this effect, that,—plaintiffs Paukee Tumbaratee of Taliakool Pudkekoot and Akoo Tumbaratee,—having instituted a suit in No. 365 of 1820, against Monaukol Kristna Wurma Rajah, claiming Rupees 1334-0-36, being amount due for their maintenance, also one-third share of certain lands Achoo Palsay, Dhers and cattle, altogether to the value of Rupees 1015-3-44,—have (after the examination of the whole of the witnesses was gone through) adjusted together the matter at issue amicably as follows. Out of the maintenance claimed, deducting what defendant supplied to plaintiffs up to this period, the balance due to plaintiffs was 9,500 hanes of paddy, which quantity the defendant has also delivered to the plaintiffs. And defendant has made over to plaintiffs a share of three-tenths of the undermentioned lands, gardens, coombrees and slaves, the produce whereof they are entitled to realize for the present and every succeeding year in perpetuity—viz.  
—*The account particulars omitted.*

The Court conformably with the joint solicitation of the parties,—do hereby confirm the decision and allotment of the property in question agreeably to the terms agreed to by them, and expressed in the above razinama,—and decree, that the lands, gardens, coombrees, Achoo Palsay, Mellomee Calapene and slaves, which have been allotted to plaintiffs, shall accordingly be possessed, enjoyed and made over to them in perpetuity. The parties are assessed with their own respective costs.

*Statement of Costs and list of Exhibits omitted.*

Given under my hand and the seal of the Court at Mangalore, this 28th day of February, A. D. 1824.

(Signed) W. SHEFFIELD, Judge.

*Decree of the Court of Adawlut in Zillah Malabar.**No. on the File of the District Moonsiff of Palghaut.**No. in Appeal before the Sudr Ameen Pundit.**No. in Special Appeal.*

838 of 1825.	231 of 1826.	2 of 1828.
Teroovamarata Shoolapan- ny Variar, <i>versus</i>	1. Edatarekootate Kau- nel, styled the Valia Nair,	1. Edatarekootate Kaunel Valia Nair,
1. Valiakootate Valia Nair.	2. Vadakekootole Koon- joo Nair,	2. Vadakekootate Koonjoo Nair,
2. Vadakekootata Koon- joo Nair.	3. Koonata Valaparambil Patty Teyen,	3. Koonata Valaparambil Patty Teyen,
3. Koonata Vataparam- bil Potty Teyen.	4. Kochen,	4. Kochen,
4. Kochen.	5. Panekatody Malen's son Chamy,	5. Panekatody Malem's son Chamy.
5. Pawkatatodngakavil Mallen.	6. Kooravetty Teyen Vellen,	6. Kooravetty Teyen Vellen,
6. Kooravetty Teya Vel- len.	7. Chataukandata Ramy,	7. Chataukandata Ramy,
7. Chatankandata Ramy.	8. Koneta Nagoo,	8. Koneta Nagoo,
8. Konete Nagoa.	9. Choongata Itten, by Vakeel Chatoo Pani- kar,	9. Choongata Itten, by Vakeel Meer Josnoo- deen,
9. Choongata Itten.	<i>versus</i> Teroovamarata Shoolapa- ny Variar.	<i>versus</i> Teroovamarata Shoolapan- ny Variar.

This suit was instituted on the 27th Tulam 1001 (17th November, 1825,) for the recovery of three male and three female slaves of the Canara caste, held by plaintiff from the Shoogapoorata Detehinammoorty Pagoda on a Kanom of 300 fans. and Patam of one year (1000) fans. 36, from the defendants, who have taken possession of and detained in their employ the Chermers in question.

1st defendant in his answer,—denies having seized the slaves sued for; or that they belong to the Detehinammoorty Pagoda,—and states that on the slaves being sent for and examined it will be known whether defendants seized them or they went to them (defendants) of their own accord on plaintiff annoying them,—and further, that they are the Jeum of Chingatoor Agappew Pagoda,—that 1st defendant's Karanavew delivered them to certain Terans, Adeans of the Pagoda, to work for them, who were to pay one fanam for each family a year,—and that they ultimately left them and entered plaintiff's service as they do for others.

3d, 4th, 5th, 6th, 7th, and 9th defendants,—answered that the slaves aforesaid are the Jemom of the Chengatoor Agappew Devasom, that they are entitled to any profit derivable from their labour by permission of the Devasom;—and also assert that they served plaintiff as they did other Kodians, and that it was on account of plaintiffs oppressing them that they came and lived with defendants.

2d defendant filed no answer.

Plaintiff filed four documents and cited five witnesses—1, Oolat Govinda Menon—2, Kondeaporata Ponasha Menon—3, Mooleddata Kristna Menon—

4, Madamparata Pongau Nair—and 5, Patamaly Kristna Namby, all of whom were examined.

## DOCUMENTS.

1. A Cherma Patteno deed dated Tulem 980.

2. The Detachinamoorty Pagoda manager's receipt for Cherma Patom dated in Koombam 998.

3. The Detachinamoorty Pagoda manager's receipt for Cherma Patom dated in Meenom 999.

4. Ditto ditto ditto in Magarom 1000.

1st defendant cited eight, and 3d, 4th, 6th, 7th, 8th and 9th defendants nine witnesses; of whom, 1, Velutatil Keloo Nair, 2, Mootedata Illerachen Nair, 3, Madasherry Paugoo Nair, and 4, Vatone Koonjoony Menon, were examined.

The Moonsiff received three ancient documents having reference to the litigated slaves, from one Kristna Namby plaintiff's 5th witness, and filed them of record.

The Moonsiff then decided,—that it was proved, the Chengator Agappen Devasom had no claim to the Chermers, held by plaintiff, on Kanom from the Detachinamoorty Devasom,—and that on the contrary it appeared, that the defendants had illegally seized and detained the Chermers,—and accordingly decreed, that defendants do forthwith restore to plaintiff the six slaves sued for, and that the 1st and 2d defendants do pay him Rupees 10, 1 qr. 14 reas as Patom, with costs of suit Rupees six—total Rupees 16, 1 qr. 14 reas.

Defendants appealed from this decree urging,—that the Jenmkar should have preferred the suit in consequence of the Jemom right of the slaves in dispute and not the plaintiff, who is a mere Kanomkar,—and that an Mondredata Nambodrepaad being sent for and examined it will be proved that the three documents produced by plaintiff's 5th witness were never in the hands of the said Nambodrepaad, the former Kariesten of the Pagoda.

Respondent, (plaintiff) denied that there was any truth in the appeal petition, or that the Agappen Devasom or appellants have any right to the Chermers, and that having for a long time held possession of them without any dispute about their proprietary right, he (plaintiff) preferred the suit grounded on his Kanom right.

The Sudr Ameen, seeing no grounds for reversing the Moonsiff's decision, accordingly confirmed it, dismissing the appeal with all costs payable by appellants.

From the latter decision, the appellants preferred a special appeal and state that it is prescribed in Clause fifth, Section XI. Regulation VI. of 1816, that when a suit is preferred in the Moonsiff's Cutcherry for personal property, the value thereof should be specified, the omission of which must be fatal to this suit, and that the passing of favorable decisions in the original and appeal suits are contrary to the Regulation quoted above.

Special respondent filed an answer, recapitulating what is already recorded.

Having maturely considered the merits of this suit, the Judge finds that the only point for consideration is whether or not females of the description of slaves here contended for, viz. the Canaka caste, are like the males, liable to be sold or mortgaged.

The late Judge, Mr. Holland, who was particularly well acquainted with the local usages of South Malabar, recorded a written opinion, on the occasion of admitting the special appeal, that it is notorious Canaka Cherma females were not

before the assumption of the country by the English, subject to slavery, like their male relations; and in this opinion, the Hindoo Law Officer of this Court, who is a native of Palghaut, concurs in his reply to certain questions put to him, on the 28th October last.

Several other respectable witnesses were also examined, on the 25th ultimo, on the same point, and although their answers to the questions put to them go to prove that female, as well as male Canaka Chermas are liable to slavery, still the Judge does not attach much importance to their evidence, because, being large landed proprietors, they have an interest in condemning the females of the Canaka caste to slavery, and because parts of it (their evidence) are inconsistent with each other, and in other respects not decisive of the question in the affirmative.

It is admitted on all hands, that the Canaka caste do not follow the usual Malayalom practice of Maremakatayom, which of itself is obviously a reason why the Jenmi of the male slaves should not have a separate and alienable right of sale or transfer over their wives or females.

Under these circumstances, the Judge nonsuits the special respondent with all costs of suit payable to the special appellants, (defendants); with leave to institute a new suit if he pleases for the recovery of the male slaves alone.

#### COSTS.

Stamp duty on institution under Section XIII. Regulation XIII. of 1816,	9	0	0
Fees of special appellants' pleader under Section XIV. Regulation XXV. of 1816, .....	4	12	10
Value of stamp paper filed by special appellants, .....	0	8	0
Value of stamp paper filed by special respondent, .....	1	0	0
Expences for serving processes on the part of special appellants, .....	2	4	0
	17	8	10
Appellants' costs in the appeal, .....	17	8	10
Respondent's ditto ditto, .....	0	8	0
	18	0	10
Plaintiff's costs in the original suit, .....	6	0	0
Total Rupees .....	41	9	8

Given under my hand and the seal of the Court, this 3d November, 1831.

L. S.

(Signed) A. MACLEAN, Judge.

231 and 232 of 1826.

#### SPECIAL APPEALS.

Admitted, because the decrees specially appealed from adjudge, the possession in slavery of Kunaka Cherma females, who it is notorious were not before the time of the English Government in Malabar subject to the slavery, which their male relations suffer, and no subsequent law authorizes the aggravation of slavery in any way.

*Decrees of the Court of Adawlut in Zillah Malabar.*

No.

<i>Original Suit, No. 312 of 1827.</i>	<i>Appeal Suit, No. 35 of 1827.</i>	<i>Special Appeal, No. 4 of 1832.</i>
1. Kowookil Edatil, Am- boo Nambiar. 2. His Anantawaren Cha- tapen ditto by Vakeel Kondy Menon, <i>versus</i> 1. Erootan Kannan by Va- keel Amboo Podwal. 2. Ramen, younger bro- ther of Peringaila Manyany.	1. Erootan Kannan, 2. Ramen, by Vakeel Ramen Nair, <i>versus</i> 1. Kowookil Amboo Nambiar. 2. Chatapen, Nambiar, by Vakeel Putalata Ra- men Nair.	1. Erootan Kannan, by Va- keel Amboo Podwal, 2. Ramen, <i>versus</i> 1. Unnamen Nambiar. 2. Chatapen Nambiar.

This suit was filed for the recovery of 3 Vettoovar slaves of the value of sixty Rupees.

The plaint sets forth,—that three Kerry class Peringaila Vettoovars, by name Pacha Neelan, Naryan Palan and Tondan Palen, the Jenmom of the plaintiffs, as also another called Koonganen mortgaged by the 2d defendant's Karnaver to the 1st defendant,—but that plaintiffs' late Karnaven Ramen Nambiar, having taken forcible possession of them in 989, a suit was instituted by 1st defendant, (No. 482 of 1814.) against 1st plaintiff, his Karnaven Ramen Nambiar, and the 2d defendant's ditto, for the recovery of Rupees ninety-one and half, the sum for which they were mortgaged, on which a decree was passed in his favor; and Rama Nambiar and 2d defendant's Karnaven directed to litigate their claim,—that 1st defendant having moved for execution of the decree, this suit was therefore brought with a view of establishing the plaintiffs' proprietary right to the slaves Tandan, Pacha Neelan and Naryan.

The 1st defendant in his answer stated,—that all Peringaila Vettoovars were the Jenimon of Peringaila Manjany, who of late years had either mortgaged or sold them to others,—that two of those mentioned in the plaint, viz. Naryan Palan and Koonganen, with some others, were mortgaged by the 2d defendant's Karnaven to one Teanjerry Ramen, from whom they were redeemed through his means and afterwards made over to him with the former deeds and a fresh Kanom bond, and Pacha Neelan mortgaged to his younger brother—and that Tondan Palen and some more were at first mortgaged and afterwards sold to him—that a decree was passed in his favor as stated, in the plaint on account of the four therein mentioned, when had the plaintiffs' any proprietary right to them, they should immediately have litigated the same, and not waited till so protracted a period. That Tondan Palen's elder brother, by name Kootty Naryan and 4 other Peringaila Vettoovars, who were at first mortgaged to the plaintiffs' family, were afterwards transferred by their Karnaven to one Coonjoor Chinden, with a Yennuck to Manany as Jenmoker, and who was still in possession of them, and through whom it could be proved, that they were the Jenmom of the 2d defendant's Tarward.

The 2d defendant neither signed the notice or appeared to defend the suit, though the required proclamation was issued.

The plaintiffs put in no reply.

The 2d plaintiff filed two exhibits and cited seven witnesses, of whom three were examined, viz. Moorikolly Kilapen—2, Ittoley Vishnoe Embrandery—3, Teranjerry Kanem.

A. Avari Ollah in a mutilated state, dated 11th Dhango 977, bearing no signature, but purporting to be a memorandum passed by Peringela Komaren to Ramen Nambear, and in which the names of Pacha Neelan and Nariyan Pelanara as the Jenmom of Koyeekiladatil.

B. A chit dated 18th Toolam 987, written by Peringaila Manjany to Teanjerry Cannan, stating that he had written him Edatil Ramen was disputing about the Vettoovar Naryan Palen, and requesting that he should either be exchanged or the mortgage amount returned, that he would meet the Nambiar and after referring to the memorandum he had given him, see whether or not he had made any mistake upon which he had some doubt.

The 1st defendant filed one exhibit and cited four witnesses, none of whom were examined.

C. Copy of the Sudr Ameen's decree in case No. 482 of 1814, dated 30th December 1815.

The Pundit Sudr Ameen decided, that the plaintiffs had clearly proved both by oral and documentary evidence, that the slaves sued for were Jenmom, which as neither the 2d defendant or his Karnaven had ever disputed, the 1st defendant who was merely the mortgagee had no business to do. We therefore adjudged, that the three Vettoovars should continue in their possession, and that the 1st defendant should either receive from the 2d, the amount for which they were mortgaged with interest or take other slaves in exchange.

Against this decision, both defendants appealed, recapitulating the first former assertions, declaring,—that the Vettoovars were born whilst their mothers were held in mortgage by the 1st appellant,—and that sickness had prevented his moving execution of the former decree at an early period,—that the 2d appellant's house and property were situated in the Canara district, through the Judge of which Zillah, a notice ought to have been served on him in the original suit, which was not done and accounted for his non-appearance—denied the validity of exhibit B, which was not written by second appellant's Karnaven,—and prayed that their witnesses and documents might be received to establish the second Jenmom right to the Vettoovars.

The 1st respondent having died, the 2d alone replied in support of the plaint—admitted that the Vettoovars in dispute were born whilst their parents were in the 1st appellant's service,—but asserted that the mothers belonged to him and had been married to the Vettoovars held in mortgage by the 1st appellant, and their offspring were therefore agreeably to the Maramakatyum rules his property—that Pacha Nulan had been mortgaged in 975 to one Pacha Suban Putter, who, if summoned would prove it, and that if the 2d appellant had no lands or property in this Zillah, he could not lay claim to these Vettoovars,—and concluded by affirming, that he was ignorant of the existence of exhibit B, when the former suit was investigated or he would have produced it.

The Assistant Judge confirmed the Pundit Sudr Ameen's decree considering the Vettoovars to have been proved, the ancient property of the respondents' family

in whose possession they had remained undisputed until the institution of this suit either by the 2d appellant or his Karnaven.

That any document they might wish to file ought to have been so in the former suit, but their not having done so or appealed from that decree left it to be inferred, that they were satisfied. He further considered the 1st appellant entitled to receive back the mortgage amount given on three Vettoovars to 2d appellant's Karnaven and dismissed the appeal with costs to be borne by appellants.

The appellants preferred a further appeal, asserting the Vettoovars were never in the special respondents' possession before they took such forcibly of them—and that they have merely remained so, because the former decree has not been executed—that in 976 Pacha Neelan was given on Verumpattom to one Yeddaparry Chenden, which chit they were able to produce.

They further declared, that it was Tuanjerry Kannan who instigated the special respondents to prefer this suit and fabricated the document B,—the Vettoovars having made over to him.

Notices were issued to both special respondents: the 1st signed it, but did not appear to file an answer, and a proclamation was issued for the attendance of the 2d; but he also failed to attend.

On a review of these proceedings, the Court considers that the special respondents have entirely failed to make good their claim to the Vettoovars as the whole of their proof rests on the authenticity of the exhibit B; of which there is great room for entertaining doubt: as had such been really executed in 987, as asserted, no good cause is shewn why it was not produced on the former trial,—whilst the omission to do so affords strong presumptive proof of its having been since fabricated to give validity to the voucher A, which is otherwise null and void. Allowing their validity, however, for the sake of argument, such alone could not be regarded as sufficient for the establishment of a Jenmom right,—more especially as no evidence has been adduced to prove that the Vettoovars were ever in the special respondents' possession, until they took such forcibly of them,—whilst it is admitted by the second in his appeal answer, that they were born when their mothers were in the 1st special appellant's service. But he advances no proof of his right to these females, or why and by whom they were alienated to the first special appellant. In fact the whole claim totally hinges on the right to the women, and for which there is only the bare assertion of the second respondent.

The great delay on the part of the 1st special appellant, in moving for execution of the former award, which he so unsatisfactorily explains, has laid his cause open to great suspicion: but the special respondent,\* having failed to establish their\* claim to the Vettoovars, and it being admitted on all hands that they were in his possession on mortgage until violently removed,—the Court considers him fully entitled to a verdict in his favor, and reverses the decrees of the lower Courts, adjudging their immediate restoration with all costs of suit to be borne by the special respondent,—leaving the proprietary right of the second appellant, which has been by no means clearly proved, to be settled between him and the first.

Given under my hand and the seal of the Court, this 29th June, 1833.

(Signed) HENRY MORRIS, *Acting Judge.*

\* *Sic in orig.*



No. 91.

*Decree of the Court of Adawlut in Zillah Malabar.*

ORIGINAL SUIT, 557 of 1833.  
Calicut District Moonsiff.  
CHERAVATA KOYA,

APPEAL SUIT, No. 59 of 1834.  
Judge's Court.  
ARIPPAPORATA OONNEE  
COOMARAN NAIR,

*versus*

1. ARIPPAPORATA OONNEE  
COOMARAN, NAIR.

2. MANASHERRY CHATTOO  
COOROOPOO.

3. AMYUN MANNACHERRY  
CHERU, NAIR.

For 20½ fanams being hire of a Cheroomen and to recover possession of him, or to obtain his value 65 fanams.

*versus*

CHERAVATA KOYA.

For the reversal of the District Moonsiff's decree awarding Rupees 5-8-10 as hire, and the Cheroomen with costs.

Plaintiff stated that in Vrichiga 1001, three defendants granted on Ottee of 45 fanams the Cheroomen Arrayan, the son of Tanneyaye, and he continued to live with plaintiff and work for him until Vrichiga 1003. In Dhanoo, first defendant took him away, and while the Cheroomun was working for him plaintiff remonstrated, and was told by first defendant, that he had taken him from second defendant, the Anantiraven of third defendant. Wherefore he sues for rent at 3½ fanams a year from 1003 to 1009 and further as above.

First defendant answered that in Magara 999, he took on Ottee of 120 fanams, second defendant, the Cheroomun Areeyan and his brother Veroogun in the name of Curnagara Coorpoo; at which time also he obtained a quitance from Curnagara Coorpoo. The Cheroomun has continued to work for him till the present time.

Second and third defendants answered,—the Cheroomun Areeyan is third defendant's Jennum and was granted in Vrichiga 1001 to plaintiff on Ottee of 45 fanams,—and that second defendant has no concern therewith, nor has he granted to any one a title thereon.

Plaintiff filed No. 10, Ottee deed from third defendant to plaintiff, and cited four witnesses. Three were examined; one he declined.

Defendants adduced no evidence.

1st defendant presented M. P. 17.

Plaintiff, second and third defendants were interrogated.

The District Moonsiff considered, that third defendant having admitted, the grant to plaintiff, any transfer, by his Anantiravun second defendant to 1st defendant, would not be valid: and 2d defendant denies that he ever granted any title. By first defendant's answer it may be seen he is in fault,—wherefore he is to deliver up the Cheroomun to plaintiff. Plaintiff declare that first defendant took away the Cheroomun, and first defendant admits him to be in his possession: wherefore he is to pay rent and further interest to date of decree,—total Rupees 5-8-10 and costs.

The appellant,—states that he did not take away the Cheroomun from plaintiff's premises, but from second defendant, who has other Chermurs belonging to his mother,—urges the inconsistency of making him deliver up only one of the two Cheroomers he has taken in mortgage,—and that if the plaint were just, there would have been a police complaint.

An answer is filed.

Appellant presented M. P. 1770 of 1834.

Appellant, respondent, second and third defendants were interrogated, and the Court took the evidence of Odio Onnee Kotte Nair, and Vaddakun Paramba Ittee Comarun Nair, the respondent having cited these, and two others, whom he afterwards declined, in support of the point, proof whereof was required by the Court,—the Jennum title of the third defendant's family to the Cheromun Areeyan.

The Court,—observing, that in the original trial, no evidence was forthcoming of the proprietary right of either of the parties in the Cheromun Areeyan, about the disposal of whose person they were contending,—and deeming that though a horse or an ox may in a civilized and settled country, be properly looked upon as the property of some person or other and of the person in whose possession they are found, unless the contrary appear, yet that the same rule cannot extend to a human being,—considered it requisite to obtain proof on this head as indispensable to the issue. The original second and third defendants, through whom the appellant and respondent deduce their mortgage titles, differ from one another in their statements of the family title to Areeyan, his mother Tanneeaye and family,—the third defendant stating, that he himself purchased the mother from Chellaporatha Oonnee Comarum Nair, and third defendant, that the said Nair, who was his own father, gave Tanneeaye to his (second defendant's) mother. The third defendant, on being questioned, declared that he has the deed of sale from the said Nair, and that he would produce it, on the 2d instant, but has failed to do so to the present time. The two witnesses examined for the respondent, prove nothing respecting the proprietary right and this point remains entirely unsubstantiated. The Court,—reflecting, that a confirmation of the District Moonsiff's decree would have the effect of condemning Areeyan to a state of perpetual slavery, whereas, for all that appears in evidence to the contrary, he may be entirely a free man,—considers that the decree cannot stand,—reverses it accordingly,—and directs that under the circumstances, each party do pay their own costs in all stages.

(Signed) ROBERT NELSON, *Judge.*

CALICUT, }  
14th February, 1835. }

## REGISTER'S COURT.

ORIGINAL SUIT, 207 of 1833.

KATHIGAMANDRAGATA VERRAN COOTY

*versus*

1. VADAKUDDEVELL AGATA AYESTRA, OOMA.
2. Her brother KAMAO CAOTY.
3. Ditto MAMOO.
4. KOONJI MORDEEN.
5. MORDEEN CAOTY,
6. KOOJALY.

Plaintiff stated that in Magarom 1008, the first defendant sold to him seven Chermars for Rupees one hundred and forty, but did not make over possession. That plaintiff subsequently sold them to another person for Rupees one hundred and forty-five: but the defendants having refused to give up the Chermars, the bargain was broken off; whereby plaintiff has been endamaged Rupees five, which he claims with the original purchase money,—total Rupees one hundred and forty-five.

Defendants gave no answer.

Plaintiff filed the deed of sale and substantiated its execution by five witnesses—Orekarr Kondu Menon, Mopila Bava, Valiagata Sawken Adjor, Kalarekel Mordeen, and Allingal Issopu. He also shewed that the defendants had refused to make over the Chermars, and that he had been obliged to repay the Rupees one hundred and forty-five, for which the Chermars had been resold.

Upon a perusal of the proceedings, the Court see two objections to passing a decree according to the plaint. In the first place, the deed, though clearly conveying the proprietary right in the slaves to the plaintiff, does not state the sum for which this right is sold. No sum of hard cash was ever paid by plaintiff; for these Chermars were made over,—to be rated at such price as might appear just to a punchayet,—in order to satisfy part of another claim, which plaintiff had against first defendant. Had the price been ever formally settled, another document should have been executed. When a money claim is founded on a deed, that deed should be expressive of the sum so claimed. But the plaintiff might if he liked have filed a suit upon the present one for a lack of Rupees, and if the correctness of the claim be admitted in one instance, it must be in the other also. It is further to be observed, that receiving the Chermars can be no loss to the plaintiff, if, as he pretends, they are saleable for Rupees five more than the sum at which he bought them.

The second objection is to the Rupees five profit. Plaintiff should not have sold that, which he was not in possession of, and passing a decree for loss accruing thereby, would open a door to fraud and abuse. In the present case indeed, Rupees five is no exorbitant sum; but if this was allowed, any sum might be claimed by simply writing a deed of sale to another person and taking it back. The case of passing a decree for damages for grain, &c. not delivered is very different, because then the damages are not laid upon what any individual would have given for the article, but upon the current price of the day.

Wherefore the Court do decree, that the defendants do forthwith make over to the plaintiff, the 7 Chermars mentioned in the plaint, and pay all costs of suit. But if any one of the Chermars shall not be forthcoming at the time of the execution of this decree, then no Chermars shall be made over, but rupees one hundred and forty paid in lieu of the same.

Given under my hand and the seal of the Court, this 8th July, 1833.

(Signed) GEORGE SPARKES, *Acting Register.*

*Original Suit 64 of 1832, on the File of Adawlut Court, Zillah Malabar.* No. 93.

MOORAGAN, Son of EEVOOVEN CHOKOLATHAPORAKEL NARAGAPARAMBIL COOPA VELEN,

1. TAYATHIEPADIARVEETIL CAROPPEN NAIR.
2. COMOO NAIR, his heir.
3. MANARAKAT VALIA NAIR, by vakeel VIKIRISHIA MENON.

Decree of the Pundit Sudr Ameen.

This suit was instituted for the recovery of four Chermers named,—Ekkama, daughter of Roonjiaken,—Malayen, his son,—Kaka Velaken's daughter—and Vella Kadia,—of Erala caste, valued at 400 fanams, or their value. The Chermers, after having been sold to plaintiff in Koombom 1006, by the first and second defendants' Karnaven Shangara Nair, who died in Vrischigom 1007, left him and went and entered in the service of the 3d defendant, who has detained them.

First defendant, after signing the notice, did not attend and represent any thing.

Second defendant in his answer states,—that the Chermers his Jenmon property were sold to plaintiff for 320 fanams, transferring the former deeds relating to them,—that if there is any contention about them, the plaintiff should settle it,—instead of which plaintiff and 3d defendant colluded together, brought the present action, overvaluing the Chermers,—that he is ready to make oath or abide by it.

Third defendant by vakeel states,—that the Chermers sued for were his ancient Jenmon property,—that his Karnaven Shangaran carried and sold them to the plaintiff,—that he in consequence preferred a suit against them, (in what No. not specified,) before the Paulghaut district Moonsiff,—that before a decision was passed thereon, the present suit could not have been preferred,—nor it is customary to sell the Jenmon right of the Chermers of the Erala caste.

Plaintiff replied to second defendant's answer; and second defendant rejoined. But plaintiff filed no reply to the 3d defendant's answer. Plaintiff presented a list of four witnesses and a document upon stamp olla, being a title deed executed in Koombom 1006 to prove his claim.

Second defendant presented a list of two witnesses, and the third defendant's vakeel filed a list of four witnesses and a Kanom deed on plain Cadjan, executed in favor of Ambat Kristnen by Coonathatil Madambil Chatoo Oonamen, dated in Kany 989, Chinga Veayam. The plaintiff's document having been marked A and the 3d defendant's B they were filed of record.

The plaintiff and third defendant's vakeel were examined as were the plaintiff's witnesses—1, Rekappen, 2, Payanee Andy, 3, Andy, 4, Payanee. Second defendant's witnesses—1, Camben Nair, and 2, Ittiraracha Panikar; and third defendant's witnesses—1, Shangara Panikar, 2, Coonjoo Nair, 3, Ramen Nair, 4, Chermee Ekkee, were also examined; and the proceedings closed.

On consideration of the above proceedings and documents, it appears proved by the evidence adduced by the plaintiff,—that the first and second defendants' Kar-naven, the aforesaid Shangaren Nair, had sold the Chermers to him,—that they afterwards went and remained with the third defendant,—and that Shangaren Nair agreed to return their value. Independent of this, the third defendant admitted in his answer, the fact of the sale, which has been further corroborated by witnesses. The second defendant alleges, that the Chermers were his Jenmon slaves and sold to the plaintiff, transferring the former deed, from whom the sum of 320 fanams were only received,—while his witnesses state, that when the Chermers were sold, the former deed was not transferred, it not being customary to do so; but that they afterwards heard from Shangaren Nair, that the deed was subsequently given up. Their evidence is therefore not entitled to credit.

The third defendant's witnesses depose to the Chermers being the Jenmon of the third defendant as pleaded by him yet the deed produced by the third defendant's vakeel, as the one granted in 989, mortgaging these Chermers to Ambat Koonjen Nair by the third defendant, for 200 fanams, and redeemed by paying off the mortgage,—the signature of it is not cut off, nor is the leaf so old as to make it believe, that it was written in 989. The Chermers cannot therefore be considered, the third defendant's Jenmon right, grounded on the evidence of his witnesses and document. For the above reasons and advertting to the second defendant's admission, there is no proof or means in this suit to pass a decision as regards the disputed Jenmon right,—unless the third defendant, with the 1st and 2d defendants, bring an action after paying plaintiff's money. It is therefore decreed, that the first and second defendants do pay to the plaintiff the amount sued for with interest up to the date of this decree and costs as hereunder specified,—defendants bearing their own costs.

(Signature of Pundit Sudr Ameen.)

26th June, 1832.

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*Original Suit 161 of 1831, on the File of the Court of Adawlut, No. 94.  
Zillah Malabar.*

1. SHANGALLY TEYOONY NAIR,
2. Ditto RARAPPEN NAIR,

*versus*

1. PALACOONATHA MAKANACHERY NAMBI PORAMBATHA OONEREE NAIR.
2. Ditto OOKANDEN NAIR.
3. TIROOTIL RAMEN NAIR.
4. Ditto COMEN NAIR.
5. CHEROOCOMEN NAIR.

First defendant by Vakeel Vekeresha Menon.

Decree of the Pundit Sudr Ameen.

Plaintiff states, that in Magaram 1005, Chermer Nularay with her brother Cherappen, children of Chermer Kandothy, were bought in the name of the second plaintiff, and at the Onom festival in Chingom, as the said Chermers were being brought to be put in his possession, the third, fourth and fifth defendants seized the Chermers and carried them off; that the 2d plaintiff preferred a suit in No. 181, before the Calicut Moonsif, but it was dismissed on the grounds, that the 2d plaintiff was not of age to conduct the suit, and that he should litigate it jointly with his Karnaven (elder). The suit is therefore to recover possession of the said Chermers valued at rupees twenty.

First defendant in his answer states, that he with second defendant having sold the Jemom right of the Chermers adverted to in the plaint, they were being carried to be delivered up, when the third, fourth and fifth defendants would not allow it. In such case it is clear the suit should have been preferred against those defendants and not against them, (first and second defendants); that when his property was attached on account of a debt, the third defendant presented a petition, declaring that he had claim upon Chermer Kundothy; but it was dismissed.

Second defendant failed to appear and file answer pursuant to notice and proclamation issued.

Third, fourth and fifth defendants in their joint answer state,—that previous to the year 950, their Karnaven Chenen Nair, deceased, had purchased the Jemom right of Kundothy, the grandmother of the plaint Chermers, and of her father Choolen,—and they worked for them, the second and third defendants consequently have no claim upon them,—that when the suit 181, instituted before the Calicut Moonsif, has been dismissed, the present action is contrary to Regulation.

Plaintiffs filed no reply.

Plaintiffs filed a list of two witnesses and copy on stamp paper of the Yadast, recorded by the Calicut Moonsif in No. 344 of 1829, and an attipar deed on stamp olla, to the purport, that the plaintiffs had purchased the two Chermers mentioned in the plaint, in Magaram 1005. First defendant's Vakeel presented a list for two witnesses, and (first defendant\*) a list of four witnesses and filed a deed in a mutilated

state, purporting that Terootit Chenen Nair had taken Cheroomen Choolen and Cheroony Kundothy on otto tenure from Perody Chatoo Nair; dated in Chingom 917, Meenom Veyaom. The copy of the Yadast filed by plaintiff has been marked A and the deed B, third defendant's documents have been marked C D and filed of record.

The plaintiffs and the third defendant were examined, and the plaintiff's witnesses 1 Oonny Coomaren Nair and 2 Charoodala Ramen Nair, and the 1st defendant's witnesses 1 Palacaanonatha Coonangary Oony Caoty Nair, 2 Tataracundil Conaren Nair, and the third, fourth and fifth defendants' witnesses 1 Kalaparatha Ittoony Rama Coorpa, 3 Vekira Adeody were examined. The examination of the two remaining witnesses not being deemed necessary, the proceedings have been closed and it has been resolved to decide the suit. On a careful consideration of the above proceedings and documents, it appears that the third, fourth and fifth defendants plead that Chermer Kundothy was their Jemom slave, and that she begat the Cheramas alluded to in the plaint; and they produced a title deed in support of their plea. But when a proclamation was stuck up to sell by auction, Chermer Kundothy, grandmother of the Cheramas sued for, to the extent of 1st defendant's Jemom right, the third defendant preferred a claim, alleging, that she was his, and the 4th and 5th defendants' Jemom slave; which claim was dismissed as is proved by copy of the Yadast produced by the plaintiffs.

If she was the third, fourth and fifth defendants' Jemom slave, they should have, during the investigation of the claim advanced by the 3d defendant, produced the Jemom deed filed in this suit, and established his Jemom right to her. This they have not done. The Court cannot therefore, grounded upon the title deed now filed, conclude that the above Cheramas are the third, fourth and fifth defendants' Jemom slaves. It has been proved by plaintiffs' and first defendant's documents and evidence, that the Chermers sued for were brought forth by Kundothy's daughter, while in the first defendant's possession; under whom they have continued from that time up to 1005, when the first defendant sold them to the second plaintiff; and while being carried to be delivered up to the plaintiffs, the third, fourth and fifth defendants seized and carried them off; and by the Yadast filed by plaintiffs, it is established, that the third defendant has no right to the Chermers specified in the plaint. It is therefore decreed, that the third, fourth and fifth defendants do give up the Chermers sued for and pay costs as follows.

(Signature of the Pundit Sudr Ameen.)

23rd August, 1832.

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*Decree of the District Moonsif of Calicut in the Zillah South Malabar,  
dated the 7th Edavom, 992, or 18th May, 1817.*

No. 95.

No. 221 of 1817.

KAROOPARRAPATTE NAMBOODREE,  
by vakeel MEPARAMBIL CHAKRUVANIA  
VARIAR and KALLATEL RAMEN ME-  
NON,

*versus*

1. PALLIKOONATA CHAPPOO NAIR.
2. ALANGADEN HYDROOP.

This action is brought for  
the recovery of certain Cher-  
mers, valued at 105 old gold  
fanams, on payment of the  
mortgage fans. 32.

The plaint sets forth,—that plaintiff's two Jenmom Cherma boys, named Revey and Maren, having by the second marriage of their mother grown up in the first defendant's service, on the 20th Meenom 983, plaintiff assigned over to him the younger of the said two Cherma boys for 32 fanams, being the amount of expenses incurred by him, (first defendant) for bringing them up, and obtained a Mooree (note) acknowledging the receipt of the amount in the name of plaintiff's accountant, Rama Variar; while he (plaintiff) took the elder boy into his service; but the boy not being of sufficient age to live separate from his mother, plaintiff left him again under the care of the first defendant, contributing the usual allowances during the Onon and Vishu festivals, and taking occasionally notice of him,—that in the mean time having seen him in the service of the second defendant, he enquired of and was told by him, that the first defendant had mortgaged the Cherma to him. This suit is therefore instituted against the first and second defendants for the recovery of the aforesaid two Chermers, valued at fanams 705, on payment of the mortgage fanams 32.

The defendants signed the notice issued on the 14th April, 1817, but having failed to attend either personally or by vakeel, the witnesses cited by the plaintiff's vakeel, viz. Chatangat Krishna Menon and Pootanveetil Ramen Nair, were sworn and examined in order to pass a decision,—pursuant to Clause First, Section XXVI. Regulation VI. of 1816. When the first witness stated in his deposition,—that the plaintiff's Jenmom, the two Cherma boys alluded to in the plaint, having been by the second marriage of their mother brought up by the first defendant, in Meenom 982, plaintiff assigned over the younger of them to the first defendant on Kanom (mortgage,) for 32 fanams, being the amount expenses incurred by him for bringing them up, and obtained from him a note acknowledging the receipt of that sum,—while he took the eldest boy into his employment; but the boy being too young to live separate from his mother, he went and remained in the first defendant's service,—that in the mean time, the plaintiff, having come to know, that the first defendant had mortgaged both the Cherma boys to the second defendant for one hundred and odd fanams, he called upon the first defendant; when he promised to give up the Chermers on payment of the thirty-two fanams, which he owed him,—that subsequently thereto, on the 15th Meenom 992, by desire of the plaintiff, witness and Pootenveetil Ramen sent for the first and second defendants and demanded restoration of the Chermers, when the former said, that he is prevented from restoring them, owing to his not having been able to discharge the amount he



owes the second defendant, that he would, however, try to discharge the amount and give up the Chermers, on the 20th,—and that the Mooree produced in Court was the identical one which was granted by the first defendant. The second witness's deposition is to the same effect as that of the first.

On a careful consideration of the abovementioned circumstances, and inspection of the documents produced by the plaintiff's vakeel, it appears that it has been satisfactorily proved by the plaintiff's witnesses,—that the Chermers alluded to in the plaint, are the plaintiff's Jenmom property,—that they having been by the second marriage of their mother with a Cheroomen, belonging to the first defendant, brought up by the first defendant,—the younger of them was mortgaged to the first defendant for 32 fanams, being the amount expenses incurred by him for bringing them up,—that subsequently the first defendant mortgaged both the Chermers to the second defendant, and promised to restore them on payment of the 32 fanams, for which the younger of them was mortgaged to him,—and the plaintiff's vakeel having produced the Mooree granted by the first defendant, acknowledging the receipt of thirty-two fanams being the amount expenses incurred by him for bringing them up, and owing to the defendant's default to attend and defend the suit agreeably to order the Court being unable to ascertain whether their mortgage claim exceeds the amount adverted to, or whether they have any other title to the Chermers in question, it is, as prescribed in the aforesaid Section, decreed, that the first defendant do restore to the plaintiff his aforesaid Jenmom Chermers named Revey and Maren, on the receipt of the thirty-two fanams alluded to in the plaint and pay costs Rupees 1-2-52.

No. 96. *Decree of the District Moonsif of Calicut in Zillah South Malabar, dated 15th Edavom, 992, or 26th May, 1817.*

No. 212 of 1817.

KUPADICHIRUDRAGATHA OOMACHA-KOOTTY, by vakeel ABADERAN KOOTTY,

*versus*

1. KAYATESHERRY PAMETOO KELLOO PAMKER.

2. CHENOO PAMKER, by vakeel KELLOO PAMKER.

For the recovery of  
5 Chermers of the Jenmom, value of 120 fanams.

It was stated in the plaint,—that plaintiff's father Srangumdragatha Koonjalen had in the year 948, purchased, Poola Chermen Poolally Vempeon Chermers Olpooram, Cherookanakkee Cheekie and Kandatee, as well as Chermen Kannen from Tekoompostoo Kootoossa, native of Chermanoor, and possessed them up to the year 978, when the said Koonjalen having died, she possessed the said Chermens until 991, at which time, the said Chakee having had three daughters named

Chermer Chekee, Cheroo Kanaky, and Ayah; and the latter had two children, four of them were in 987, assigned over to Cherekandy Achamoo, on Kanom tenure,—that afterwards in Chingom 991, as the defendants took possession of those four Chermens, as well as the remaining one, the said Achamoo preferred a suit in No. 223 of 1816, in Koondoovatty Moonsiff's Court against the defendants,—that it appearing during the trial, that there was dispute respecting the Jenmom right, a decree was proposed adjudging, that the Jemomkar should prefer another suit and prove his right, plaintiff therefore prays, that the defendants may be sent for and caused to give up the said five Chermers.

A notice was issued to the defendants, and which having been received back without the defendants signing it, a proclamation was stuck up on their house and cutcherry, allowing them a period of fifteen days. The defendants made their appearance and filed an answer, stating,—that their (defendants') Karnaven Rarecha Painkar had in the year 948, purchased Paola Chermer Chaker from the aforesaid Srangumdragatha Koonjolen, and which Cherme he married to his (defendant's) Cherman named Kanen, and while in their employ, the said Chermer had three, and the latter had two children, who till now work for him, and for the owner of the Chermans who married them,—that when the aforesaid Achamoo preferred a suit in No. 223, regarding the said Chermens, it having been proved, that they were the defendants Jenmom, a decree was passed accordingly,—that the Jenmom deed of the aforesaid Chermer as well as several other deeds and property were consumed by fire, when their (defendants') house was burnt down, and which fact they will prove by witnesses.

The plaintiff's vakeel was interrogated. He states,—that previous to the Chermers being taken in Jemom, they were held on ottee for 101 fanams, the deed thereof and an attifar deed of the Chermers are in the plaintiff's possession,—that with the exception of Chermer Paollaly Veerapeen who died, the remaining five Chermers with two Parambas were assigned over by plaintiff's father to defendants' Karnaven Ooney Kootty Panikar on quit rent in the year 956; valec (hire in paddy) was given to Chermer Chaker with the defendants' own Chermer,—that until 962, she worked for the defendant, and during that time she had three children, and from the said year up to 973, the aforesaid Chermers worked for the defendants, and Pattatel Choyer, and from 973 to 978, the aforesaid Srangumdragatha Achamoo detained the abovementioned Chermers in his possession,—that in 978 after the death of plaintiff's father, the plaintiff assigned the said Chermers on Kanom tenure to Shrangundeagatha Shayeree for 50 fanams,—that of the Chermers which were purchased, five died,—that from the year 978 to 983, the Chermers in question were in the said Shayeree's service, and in the latter year, the plaintiff paid off the said Shayeree's claim in the said Chermers, and assigned four of them over to the aforesaid Achooma for 101 fanams,—and that whilst they were in his service, until 991, they having gone to Chermen Kanen, who worked for the defendant, he would not let them return.

It appears by the examination taken from the defendants that they have witnesses to prove the statements made in their answer.

The plaintiff's vakeel cited eight witnesses; of whom, 1, Cherekandy Achamoo, 2, Srangundragatha Achamoo, and 8 Tekoomportoo Moodeen Kootty, having been sworn,—the first deposed—that the said Chermers were assigned over to the plaintiff in 978, on Patom tenure, and continued in her service until 981, when she assigned them over to the aforesaid Shayeree on Konam for 51 fanams,—that afterwards she

held them in 987, on Kanom for 101 fanams,—and that while they were in her service up to 991, they went to the defendant's house to see their father. The second witness deposed, that on his maternal uncle, the aforesaid Koonjalen being informed, that one Oony Kadavata Oony Kaya had brought the aforesaid Chermer Chaker and her daughters Chaker and Nyah Kootty from Ramanatkare to Cheromanoor, he (Koonjalen) desired him (witness) to bring and keep them,—that he brought and kept them with him, at which time, the defendants' Karnaven Ramootty Paniker said, that the said Chermers belonged to him, that he (witness) kept them for two years, and afterwards assigned the aforesaid four Chermers over to Cherekandy Koory, and in 977 that until 987, they were in his service,—and that the aforesaid Koonjalen bought the Jenom right of the abovementioned Chermers in 948. Eighth witness deposed, that his uncle had told him that he had in 948, sold six Chermers to the aforesaid Koonjalen, and that he (witness) knows nothing relative to the transaction between the plaintiff and defendant.

The defendant cited four witnesses, of whom, 1st, Neykoonattoo Cherookootty Nair—2d, Palakant Koren, and 4th, Panachekel Ramen, having been sworn,—the first witness deposed,—that he was present when the defendants' Karnaven Raroo Pamkar purchased a Poola Chermer named Chaker from Srangundragatha Koonjalen in 948, and which Chermer died in 980, while in the defendants' possession,—and that she had three children named Chakey, Ayah and Cheroo Kanakey; of whom Ayah had a daughter named Chaker Kootty, and Chaker, a son named Koonjee Kanmen,—that the said Chermer Chakey went to her husband in the service of Palakut Kanda Nair, as did Cheroo Kanakey in the service of Chatretoo Achamootty Markar, and Chermer Ayah in Panikat Ramen Menon's service,—that as their children could not live separately, they remain where their mothers are,—that the said Chermers were taken in Jenmem in Pollikaut Karoo Menon's house,—that an ottee and attiper deeds were executed,—that Panikat Tachen Menon had drawn them out,—that a value of 65 old fanams was fixed for the aforesaid Chermer,—and that he (witness) saw the said sum being paid to Koonjalen and he affix his signature to the deed, and give neer (water given to the purchaser to drink)—that when the defendants' house was in 980, burnt down, the box containing deeds was also burnt, and that he does not know whether the Chermers' deeds were also then burnt or not. The second and fourth witnesses deposed to the same effect as the first witness.

On a full consideration of the circumstances, the documents produced by the plaintiff's vakeel, and copy of the decree in No. 223, finds that the defendants have failed to produce the deed by which his Karnaven had purchased the aforesaid Chermers from the plaintiff's father: nor he has proved, that they were destroyed by fire; and as the plaintiff produced the ottee and attipar deed of the Chermers which her father had purchased in 948, and it appearing by the abovementioned decree, that the plaintiff should institute a suit respecting the Chermers, it is decreed, that the defendants do give up the Chermers alluded to in the plaint to plaintiff and pay institution fees Rs. 1, qr. 3, reas. 50.

(Signature of the District Moonsif.)

*Decree of the District Moonsif of Calicut, in Zillah South Malabar, No. 97.  
dated the 10th Dhanoo 994, or 23d December, 1818.*

No. 167 of 1818.

<p>KAPUDECHUNDRAGATHA MOODEEN KOOTTY,  <i>versus</i> VATTIKANT EMOO NAIR.</p>	}	<p>For the recovery of two Chermers, of the value of twenty Rupees and Patom Rupees two.</p>
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It is stated in the plaint, that Achamparambata Koonjee Patoomah, Viatoomah Kooty and Oomaya Oomah, having, in the month of Midom 992, sold the Chermers named Janien and Vellen to the plaintiff,—according to custom, he sent people to bring the said Chermers; when the defendant objected and detained them. Plaintiff therefore sues for the recovery of Rupees two, being Patom (rent) for ten months, together with the two Chermers of the value of twenty Rupees.

The defendant filed an answer, stating that he purchased the Chermers alluded to in the plaint, from Achamparambata Avran Kootty, and that he has no reason to give them up or pay Patom.

It appears by the evidence, taken on oath, of the plaintiff's witnesses, Valiapedgail Amootty, Poodia Cherrekkel, Kaya Keyaportoo, Koonyer Rayen, and Kalady Chatoo,—that the aforesaid women had in the month of Medom 992 sold the Chermers alluded to in the plaint, to the plaintiff for twenty Rupees, having come into their possession as shares of their father's property,—that no one else has any claim on them,—and that they heard that the defendant detained them.

The defendant's witness Vadakepadasherry Ittikoomaren Chekoo having been sworn, deposed,—that he heard, that one Chervavatoo Avooderan Kootty sold the aforesaid Chermers to the defendant,—that of the aforesaid Chermers, the one named Tanien, was the Jenmom of the said women, who sold him to the plaintiff,—and that the other named Vellen belonged to Avooderan Kootty.

On a full consideration of the above circumstances, and the evidence of witnesses, it seems clear,—that the aforesaid females had sold the two Chermers alluded to in the plaint, to the plaintiff,—that they were their exclusive property,—and that Avooderan Kootty, who sold them to the defendant has no right to them.

The defendant's witness deposes that he heard that, Chermer Tanien was the Jenmom of the aforesaid females and Vellen that of Avooderan Kootty; beyond which it not having been proved, that the latter, who sold the Chermers to the defendant, had any right to them, the defendant could not have bought them from him: and therefore the assertion that the Chermers were purchased from the said Avooderan Kootty, not being of any avail, it is decreed, that the defendant do give up possession of the two Chermers alluded to in the plaint of the value of twenty Rupees to plaintiff, and pay Patom Rupees two, together with the institution fee Rupees 1-1-50.

(Signature of District Moonsif.)

No. 98.

*Decree of the Calicut District Moonsif, in Zillah Malabar,  
No. 19 on the File of 1825.*

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PAODEACHERRAKEL OOSSEN COOTY,

*versus*

KANAKEN KERRAN, residing in Edamana Tayata.

Plaint sets forth that in Edavom 997 plaintiff delivered to the defendant white coloured bullock to be broken in for the plough, which defendant not having returned, the suit is for the recovery of the bullock or its value Rupees 8-3 qr.

Defendant in his answer states;—that in 997 the plaintiff's elder brother K delivered to him (defendant) a red young bullock which was vicious, to be broken in for the plough; that another young bullock belonging to himself having been stolen from him (defendant), he told Kaya to take away his bullock lest it should also be stolen; that he replied that no one would steal it, adding that it might be tied every evening in his stall; that notwithstanding this precaution the bullock was stolen; and that Kaya said that if it could not be discovered who had stolen the bullock he did not mind for the loss.

The plaintiff nor defendant filed any document in this case.

Chernata Amod and Culpaye Chundoo Cooty were examined as witnesses for the plaintiff; the examination of another, the remaining witness, was not considered necessary.

The defendant cited no witness, the proceedings were therefore closed.

On a consideration of this suit, the Court finds that the defendant has admitted having received the bullock adverted to in the plaint, for the purpose of having it broken in to the plough, his allegation that it was stolen is not proved; and if the bullock were stolen it must have been through the defendant's carelessness and he must consequently be answerable for it, and pay its value; but the price demanded for the bullock appears to be high, nor has the plaintiff proved its actual value, and as it cannot exceed three Rupees, it is adjudged that the defendant either restore to the plaintiff the plaint bullock or pay him Rupees three its value.

Given under my hand and the seal of the Court this 17th Medom 1007  
28th April 1825.

(Signature of the Moonsif.)

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*Decree passed by the Calicut Moonsif, in Zillah Malabar, on the 4th No. 90.  
Wreschigom 1001, or 17th November, 1825.*

No. 404 of 1825.

KOLOOR RARECHEN, by vakeel his son KELLOO,

*versus*

PELAKATMOOLAMPULLY KELEN alias KOONJEN.

The plaintiff sets forth, that in Medom 999, defendant executed a bond in plaintiff's favor for Rupees fourteen, pledging his four Jeumom Chermers to him, viz. Cheroomen Ikkachen, Chermer Kanaye, Chermer girl Teraree and Chermer girl Payaokaye. He therefore claims, the principal with interest up to the date of the institution of the suit in Chingam 1000, Rupees 2-1-52, total Rupees 16-1-52; or to cause defendant to make over to him the aforesaid Chermers, valued at Rupees twenty-five, as set down in the bond by receiving from him Rupees 8-1-48, being the balance due him after deducting his debt.

The defendant signed the notice, issued on the 23d August, 1825, but not appearing, the cause was tried *ex parte*, according to Section XX. Regulation VI. of 1816.

The bond produced by plaintiff was filed and marked A, and the witnesses Kandil Peragan, Kandil Chundoo Cooty, Illambarambie Vappoo and Sepoy Karoo, were examined for the plaintiff.

On a consideration of this case, the Court finds that it has been proved both by oral and documentary evidence, that the defendant had, as set forth in the plaintiff, executed the bond in plaintiff's favor, pledging the Chermers to him; and the defendant not having attended and stated any thing in opposition thereto, and it appearing that further than his having still retained possession of the pledged Chermers he has not the least fulfilled his engagement,—the Court considers the defendant liable to pay the amount sued for. For these reasons, the defendant is adjudged to pay plaintiff the amount sued for Rupees 16-1-52, and costs Rupees 2-9-4.

(Signed) KAMAREN NAIR, *Moonsif*.

No. 100. *Decree passed in the Calicut District Moonsif's Court, in Zillah Malabar, on the 17th Dhanoo 1002, or 30th December, 1826.*

No. 387 1826.

POOLIKELLAYATA CAYA MOODEEN,

*versus*

1. TAILATATIL COONJOLEN,
2. OONY ATHEN,

} For the recovery of Chermer Parecher valued at thirty-one fanams.

The plaint\* sets forth, that,—the defendants having fixed thirty-five fanams as the price of a Chermer girl named Parecher, their Jenmom (slave), on the 29th Chingam 999,—they received twenty-five fanams and executed a deed, binding themselves to pay the amount in kanee one thousand and one, and on failure, to receive the remaining ten fanams and give up the Chermer in Jenmom to plaintiff; that as defendants have not fulfilled their engagement, begs\* that they be caused to receive the balance and transfer the Chermer in Jenmom.

The defendants signed the notice issued to them, on the 25th August, 1826; but they did not attend nor file answer. The deed produced by the plaintiff as executed by the defendants having been marked A is filed of record and the plaintiff's witnesses Chenas Nair, Coonjy Camod and Coonjaly Cooty were examined.

On a consideration of this case,—the receipt of twenty-five fanams by the defendants after fixing the value of the Chermer,—and the execution of the deed in plaintiff's favor,—are found to be fully proved by witnesses; and as defendants have not attended to point out any difference in their evidence, the case must be considered a true one. It does not however, appear that the Chermer was actually given in Jenmom, but only a promise made in writing to do so; the Chermer cannot therefore be caused to be given up as claimed; on the above grounds, it is decreed, that the defendants do pay to plaintiff fanams twenty-five mentioned in the deed, with fanams seven interest thereon to the date of this decree, and also pay institution fees annas eleven and pice three.

(Signed) CAMAREN NAIR, *Moonsif*.

\* *Sic in orig.*

*Decree passed in the Calicut District Moonsif's Court, in Zillah Malabar, on the 9th Magaram 1002, or 30th January, 1827.* No. 101.

No. 560.  
1827.

MANATOOR IMBECCHOONY NAIR,  
By Vakeel OONI CHATEN his heir,  
*versus*  
MOOLAMANGALATA KELOO,  
TATACOOYEL CAMOO,

Claim for the recovery of a  
Cheroomen valued at forty fanams.

It is set forth in the plaint, that,—in Medom 997, plaintiff purchased, from the second defendant, the Jemom right of the Poola Cheroomen Tamen of Poolayi Coodiar caste,—but the first defendant refuses to give him up by receiving the twenty-one fanams Otte claim he has upon the Cheroomen;—he therefore sues for the said Cheroomen, valued at forty-five fanams on the payment of twenty-one fanams.

First defendant in his answer states, that,—there is no reason for giving up the Cherman to plaintiff; that after he had received the Cheroomen on Otte tenure for twenty-one fanams from the second defendant, Permgot Imbichy Nair, a distant relation of second defendant, opposed the Cheroomen being taken possession of; that he mentioned the circumstance to the second defendant, and by his permission paid fifteen fanams to Imbichy Nair and obtained a deed of Otikoomporom; that the second defendant offering to give the Cheroomen in Jemom he purchased the Jemom right of that Cheroomen and two others in the name of plaintiff, his Karnaven, retaining the former in his own service, while the two others were employed on the works of his and plaintiff's family; and that the suit has been preferred with the fraudulent intention of breaking off his connection with regard to the family property.

Second defendant signed the notice, but did not appear and file answer; but as he attended at the time of the trial, he was interrogated, it being desirable to have his answer in this case. He admits that he had sold the Jemom right of the Cheroomen to the plaintiff, and of his having given him on Otte to the first defendant,—adding, that he and Imbichy Nair are not relations by blood, but only related in that degree as to observe mourning for a short time,—that Imbichy Nair has therefore no right to transfer the Cheroomen for debt,—and that he was not aware of such a transfer.

Plaintiff filed an Enuck (transfer writing.) First defendant filed a deed of Otte and a debt bond: and they were marked A, B and C; and Rama Putter, Ramen Nair, Comoo Nair and Itterarappen Nair were examined as witnesses for plaintiff; and Chato Nair and Caroo Nair were examined as witnesses for first defendant.

Second defendant adduced no evidence.

On a consideration of this case, it appears clear, from the plaintiff's and defendants' own statements,—that the plaintiff bought the Jemom right of the Cheroomen sued for,—and that the first defendant has an Otte claim on him. But his declaration, that he had taken the Cheroomen on Jemom in plaintiff's name is not at all proved; and his allegation,—that he had paid fifteen fanams to Imbichy, an anan-teraven (heir) of first defendant, as a separate debt on the Cheroomen,—is denied by the second defendant; who was the Jemer (owner) of the Cheroomen. Nor is it proved that the said Imbichy has any right to receive money or make transfer. If he has any claim on the family property he must bring an action for it. The first defendant's



assertion cannot therefore be credited. For these reasons, it is decreed, that on the plaintiff paying to first defendant twenty-one fanams Otte claim, he is to give up the plaint Cheroomen to plaintiff, and pay institution fees, annas eleven and pice three. The second defendant is not to pay any thing.

(Signed) CAMAREN NAIR, *Moonsif*.

No. 102. *Decree of the Calicut District Moonsif, in the Zillah of Malabar, passed on the 6th Koombhom 1002, M. S. or 16th February, 1827.*

No. <sup>419</sup><sub>1826</sub>.

PADDELODAYIL NAINAMA,

*versus*

1. CHEMALACHERRY OOMCHEN KOORPOO,
2. CHEROOKOMEN KOORPOO,
3. KANARA KOORPOO,
4. CHOPAH KOORPOO,

For the recovery of Cheroomars, of the Jenmom value of one-hundred and twenty-five fanams.

The plaint states,—that of the plaintiff's Jenmom Cheroomars, a Poalah Cheroomer named Rayi, was given in marriage to a Poalah Cheroomer named Ikul, the Jenmom of the defendants, and after the usual sum was paid to the plaintiff's father, the Cherooman took away his wife and the Cheroomer bore five children;—that by the right plaintiff has to the mother, he is entitled to three of her children, viz. a Cheroomer named Parrachy, and two Cheroomars named Chatoo and Arathan, valued at one hundred and twenty-five fanams, which he begs may be recovered.

All the defendants jointly answered, but admitted nothing stated in the plaint. They contend that, as the Cheroomer was not taken away, the plaintiff can claim no right to the Chermers sued for; that the Chermer named Rayi, stated in the plaint, was married by one of the Chermers Kelly, and according to custom, a certain sum was paid to Avelery Karen and the Chermer was brought away, and she bore the Chermers sued for; that plaintiff has no right on them; that he made a representation in the Calicut Talook Cutchery respecting them.

The parties in this suit filed no documents. The plaintiff's witnesses Kaonomel Echoo Nair, Nanagan Konnokur, Taykandy Chandoo Nair, Cherooman Mootoran Chaten and Kandil Chandoo Caotty have been examined. The defendants adduced no evidence nor attended at the trial of this suit.

Having considered the proceedings held in this suit, it appears in the examination held, that the plaintiff has right on the Cheroomars and their mother, but on the other hand, it appears in the defendants' answer, that Kanden, who is therein alluded to, has right to the said Chermers, and that it also appears, that there is a dispute with him regarding them; to decide which, unless he is admitted as a defendant, a final decision cannot be passed; this suit is therefore dismissed, and the plaintiff is to pay the institution fee one rupee, fifteen annas and three pice.

(Signed) CAMAREN NAIR, *Moonsif*.

Copies and translations,

T. LUSHINGTON, *Acting Register*.

*Abstracts of decrees transmitted by the Assistant Judge and Joint Criminal Judge of Malabar, with his report dated 6th August, 1836, selected from 242 decrees,\* on record whereby rights in slaves have been decided on.*

No. 102.

## DECISIONS BY THE JUDGE, ZILLAH NORTH MALABAR.

### 1.—ORIGINAL SUIT, No. 452, ON THE OLD FILE.

For recovery of rupees two hundred and thirty, four annas and two pie, being balance principal and interest due on rupees one hundred forty-seven and eight annas advanced on the security of four slaves.

The defendant admitted the transaction, but pleaded, that he had paid more than had been allowed in the plaint.

A decree was passed, adjudging the plaintiff rupees one hundred and seventy-one, three annas and two pie, being the balance shewn to be due after giving defendant credit for the sums which he proved he had paid.

12th January, 1807.

### 2.—ORIGINAL SUIT, No. 653 of 1815.

No. 104.

For recovery of cattle, copper pots and fields, valued at rupees five hundred and seventy, and of six slaves at rupees ninety.

The defendants pleaded, that the property sued for was personally acquired by them. The plaint was dismissed for want of proof.

12th December, 1816.

### 3.—APPEAL CAUSE, No. 15 of 1818.

No. 105.

For recovery of rupees 5-3-2, being rent due on two slaves, and for possession of the said slaves.

The defendant pleaded, that the slaves were his ancestral property.

The Moonsiff on examination decreed for the plaintiffs, which judgment was reversed on appeal, on the appellant, (defendant) taking his oath to the truth of the plea.

25th July, 1820.

\* See No. 65, *infra*.

No. 106.

*By the Assistant Judge, Auxiliary Court, Malabar.*

## 4.—APPEAL CAUSE, No. 56 of 1827.

For possession of six slaves,—received first in mortgage, and afterwards purchased outright by plaintiff from the head of the family of the first and second defendants,—which together with two children, the offspring thereof, had been stealthily appropriated by third defendant; the value of the above eight slaves being stated at rupees one hundred and fifty.

The first defendant failed to appear to defend the suit. The second defendant answered in support of the plaint. The third defendant contested it by declaring the slaves to be his ancestral property.

The Sudr Ameen Pundit after hearing evidence on both sides, decided in favor of the plaintiff, and this decree was confirmed on appeal.

30th December, 1829.

No. 107.

*By the Register of the Zillah North Malabar.*

## 5.—ORIGINAL SUIT, No. 3803, ON THE OLD FILE.

For recovery of eight slaves, of the value of one hundred and twenty rupees, forcibly taken possession of by the defendant, and of that of their labor for two years, being rupees ten, four annas and ten pie.

The defendant pleaded, that the slaves were his own property.

The plaintiff having failed to afford sufficient proof of his proprietary right to the slaves, the suit was dismissed.

7th September, 1808.

No. 108.

## 6.—ORIGINAL SUIT, No. 285 of 1817.

For possession of fields and slaves attached thereto, on repayment of rupees six hundred and two, advanced on mortgage thereof, by first defendant—and of rupees six hundred, similarly advanced by second defendant.

First defendant pleaded, that beyond the amount of his mortgage, he had paid a further sum, and thus become vested with the proprietary right of certain fields and slaves by purchase outright.

Second defendant failed to appear.

The first defendant's plea having been disproved, possession of the lands and slaves was decreed to be made over to plaintiff, on his making good the sums sunk thereon by the defendants in mortgage.

17th January, 1818.

## 7.—ORIGINAL SUIT, No. 35 of 1814.

No. 108.

For recovery of four slaves of the value of eighty rupees, and rent thereof for three years rupees twenty-one, nine annas, seven pie,—the said slaves having been retained by the late senior in defendant's family, after the sum of rupees fifty, raised on them by mortgage, had been repaid.

The defendant denied, that the amount of the mortgage had been received back, and claimed, that the slaves should remain in his possession.

On proof, that the amount of the mortgage had been repaid, possession of the slaves was decreed to plaintiff.

15th May, 1818.

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*By the Sudr Ameen.*

No. 11 .

## 8.—ORIGINAL SUIT, No. 70 of 1814.

For recovery of eight slaves of the value of rupees sixty-four, the property of a Pagoda, seized and sold by first defendant to second defendant.

The first defendant did not appear.

The second defendant pleaded, that the slaves had been lodged in his possession by an individual, to whom they had been sold by first defendant.

The plaintiff having proved the slaves to be the property of the Pagoda, of whose concerns he was the manager, possession was decreed to him.

30th April, 1816.

## 9.—ORIGINAL SUIT, No. 503 of 1815.

No. 111.

For recovery of four slaves of the value of rupees forty, being the issue of a female slave, the property of the plaintiff, married to a male slave belonging to the defendants, and taken forcibly by defendants from the person, to whom they had been rented by plaintiff.

Defendants denied the truth of the plaint and pleaded, that the slaves were their ancestral property, and had been long in their possession.

The plaintiff having established his title, and that he had been in the enjoyment of the produce of their labor, possession of the slaves was decreed to him.

24th June, 1816.

No. 112.

## 10.—APPEAL CAUSE, No. 144 of 1825.

For recovery of rupees twenty-five, being the amount sunk on the mortgage of a slave, who had died while in the possession of the plaintiff, (mortgagee), and of rupees twenty-six, six annas, the equivalent of his labor lost since the time of his death.

Defendant declared, that he had repaid the mortgage money.

The defendant not having made good his plea in opposition to the evidence for plaintiff, a decree was passed by the Moonsiff, according to the plaint. This was reversed on appeal from discrepancies being apparent in the evidence for the prosecution.

29th August, 1825.

No. 113.

## 11.—APPEAL CAUSE, No. 284 of 1825.

For recovery of two slaves, valued at rupees forty-five, rented to defendant, and for arrears of rent at rupees 1-3-2 per annum, amounting with interest to rupees 17-11-2.

Defendant denied plaintiff's title, and pleaded purchase of the slaves from a third party.

The Moonsiff, considering the evidence advanced by plaintiff to have established his title, passed a decree in his favor; which was reversed on appeal, owing to contradictions apparent in the statements of the witnesses for the prosecution.

26th January, 1826.

No. 114.

*By the Commissioner of Bekal.*

## 12.—No. 15,012 ON THE OLD FILE.

For recovery of rupees ten with interest rupees 5-3-2, advanced on the security of a slave.

The defendant having admitted the debt, a decree was passed for the amount sued for.

27th March, 1811.

*By the Commissioner of Curye.*

No. 115.

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13.—No. 12614 ON THE OLD FILE.

For recovery of rupees 20-2-7, due on the rent of two slaves for six years.

The defendant denied the plaintiff's title, and pleaded, that he had purchased the slaves from a third person. On proof of the plaintiff's right, the sum sued for, was decreed to him.

28th October, 1810.

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14.—No. 1163 of 1813.

No. 116.

For recovery,—of rupees 38-6-5, advanced on the mortgage of a slave of rupees 12-9-7, expended for his food and clothing, interest thereon rupees 9-13-8,—and of rupees 3-12, due on simple debt.

The defendant did not appear.

A decree was passed in favor of plaintiff, on the proof adduced by him.

27th February, 1814.

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*By the Commissioner of Cherricul.*

No. 117.

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15.—No. 774 of 1813.

For recovery of five slaves, and the deeds connected therewith, on repayment of rupees sixteen, sunk by defendant on the mortgage thereof.

The defendant pleaded, that the amount advanced on the mortgage was rupees forty-four.

A decree was passed, that the slaves and deeds should be made over to plaintiff, on his making oath, that he had received no more than rupees sixteen, on the mortgage thereof and paying that sum to defendant.

3d May, 1813.

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No. 118.

*By the Commissioner of Catteyom.*

## 16.—No. 10,987, OLD FILE.

For recovery of two slaves of the value of thirty rupees, whom the defendant had forcibly detained, and of rupees twenty-one, being value of their labor for seven years.

Defendant pleaded, that he had received the slaves on mortgage from another person for six rupees.

Proof having been adduced of the slaves being the property of the plaintiff, a decree was passed in his favor.

19th March, 1810.

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No. 119.

*By the Commissioner of Wynaad.*

## 17.—No. 9756, OLD FILE.

For recovery of a slave who had absconded to the defendant, and on whom the plaintiff had a mortgage right of twenty rupees.

Defendant pleaded that he had purchased the slave from a third person.

The defendant's plea having been proved, the plaint was dismissed.

19th July, 1809.

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No. 120.

## 18.—No. 11,461, OLD FILE.

For recovery of four slaves of the value of eighty rupees, whom the defendant had taken forcible possession of.

The defendant pleaded that the slaves were his own property.

The plaintiff having established his right, a decree was passed in his favor.

27th February, 1810.

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No. 121.

*By the Cavye Moonsiff.*

## 19.—No. 79 of 1823.

For recovery of rupees 1-3-2, and interest thereon 14 annas 9 pie, due as the rent of a slave for one year.

Defendant pleaded, that no rent was due, as possession of the slave had been immediately resumed by plaintiff.

It being proved, that defendant had the use of the slave for one year, the amount sued for was decreed to plaintiff.

24th March, 1824.

## 20.—No. 215 of 1823.

No. 122.

For recovery of rupees 160-3-2, advanced on the security of four slaves, and of rupees eight, being interest thereon for one year.

The defendant put in no answer, and a decree was passed for plaintiff on the proof of his claim.

29th May, 1824.

## 21.—No. 375 of 1831.

No. 123.

For possession of four slaves purchased from the seventh defendant, for rupees sixty.

The defendants from first to fifth pleaded, that they held possession of the slaves as ancestral property, and that seventh defendant had no title therein.

The sixth defendant pleaded, that he had a mortgage upon one of the slaves of five hundred and eighty-one dungalies of paddy, (rupees seventeen and eight annas) derived from first defendant.

The seventh defendant answered in support of the plaint.

The suit was dismissed, the plaintiff not having adduced sufficient evidence of the seventh defendant's title to sell him the slaves.

31st March, 1832.

*By the Wynaad Moonsiff.*

No. 124.

## 22.—No. 58 of 1831.

For recovery of three slaves purchased by plaintiff from third defendant, for rupees fifty, who had absconded to the first and second defendants, and of rupees forty-eight, being the equivalent of their labor for two years.

The first defendant denied the truth of plaintiff's claim and pleaded, that he had received the slaves from third defendant on mortgage, for rupees 40-3-2, and had subsequently purchased them outright, for rupees 9-12-10 additional.

The second defendant failed to appear.

The third defendant stated, that he had mortgaged the slaves to first defendant, for rupees 40-3-2, that to provide for the satisfaction of a decree he had passed a deed of sale of the same slaves to the plaintiff, but that an acquittance for the decree not having been produced, the transaction had become null, and he had sold them outright to first defendant.

The sale made to plaintiff was declared to be void, as it had been effected by third defendant without the concurrence of his heirs, and as the mortgagee (first defendant) had not been apprized thereof. The plaintiff having proved, that the purchase money had been paid by him, the sum thereof, rupees fifty, and the further sum of rupees forty-eight sued for, were decreed to be made good to him by third defendant.

21st October, 1831.



No. 125.

No. 42 of 1834.

23.—For recovery of rupees thirty, on account of the rent of two slaves for five years.

The defendants pleaded, that the slaves were their ancestral property. The plaint was dismissed, as the plaintiff had failed to produce a counterpart of the lease of the slaves, said to have been granted to first defendant.

(True Abstracts,)

(Signed) T. L. STRANGE,

*Assistant Judge.*

23d May, 1834.

No. 126.

*Document concerning Slaves recognized in different Civil Causes.*

No. 1.

#### DEED OF SALE.

Executed on the 14th Meddam 992, by Namboory Narayanan Eshwaren of Pallytarra Vayil, to Padamoolata Ponan Padoonal Killoo Kanen, certifying, having sold to the latter his proprietary right in the Polayun slaves Viroondan, Virootan, Pattyan, Paravatty, Vellachy (a female), her daughter Vita Carichy, (a female), and her daughter, also Vellachy, the mother of the above, being nine in number, for full value received.

Witnesses.

Pootondil Poodia Veettil Collangara Eshwaran Cammaren.

Cherroowatoor, Padamoolata Mawiddel, Ramen Coran.

Written by Cherroowatoor Cariparambelly Kewalat Cambycanan Namby Oocaren.

No. 127.

No. 2.

#### DEED OF MORTGAGE.

Written in the month of Dhanoo 990 (January 1815) as follows. Padamoolata Ponan Killo Kanen, of the village of Cherroowatoor, having paid the sum in full of Cannanore Vera Rayea, new fanams five hundred and thirty-five, (rupees one hundred and seven,) and Caddama Para Pallytara Vyalil Namboodry Madhawan Narayanan having received the said sum of fanams five hundred and thirty-five, the latter has made over in mortgage, the nine following Polayan slaves of the Orimoori tribe, out of those he holds in his proprietary right; viz. Viroondan, Maratan, Vattyan, who has attained the age for having his ears bored, Vattacaty a child, Vellachy a female, a daughter born of her, Carichy a female, her daughter, being in number eight slaves;

as also Vellachy, the mother of the aforesaid eight slaves, making in all nine persons, mortgaged by Madhawan Narayanan. Kelloo Cannen has paid in full the said sum of new Cannanore fanams five hundred and thirty-five, (rupees one hundred and seven,) and has received in mortgage, the aforesaid nine slaves, consisting of males, females, and children. The witnesses hereto are, Cheerapally Eeswaren Keshawan, and Cayoor Cheryenmadatha Vengail Cannen Ramen. Written by Abbily Tekullatta Kishawen Shangaren.

(Signature.)

No. 3.

No. 128.

### L E A S E.

Written by Cananjairy Ryrapan, of Canote, to Narycoddan Chatoo, inhabitant of Canote. You have rented out to me in (the year) 1003, the slave named Cayama whom you received under proprietary right from Perar Veettil Chindan. The rent of this slave is two podies of paddy annually, which I will pay and take a receipt for the same.

(Signature.)

*2d Coombloom, 1003.*

*12th February, 1828.*

No. 4.

No. 129.

### A C C O U N T.

Written on the 24th Meenom 987, (4th April, 1812.) Kandakye Kellote Coottyatoor Anandan has borrowed from, and owes to Cattambally Moocanan Pockar, 623 standard, sealed seer dangalies of paddy. The price of which 623 seers of paddy being 112½ fanams, rupees 22-7-34, is to be repaid in (the month of) Tulam 988, by 800 seers of paddy, being at the rate of rupees twenty-eight (per 1000 seers). It is agreed, that these 800 seers of paddy are to be conveyed by Pookar's boat and delivered by measurement at the Candakey ferry. In security for this, Anandan has pledged his Polayan slaves Parotty, Vichadem, (males,) and Chingarri and Oorootty (females.) In case the abovementioned paddy be not delivered, the slaves aforesaid are to be sent for and to be made to work on account of the interest of the paddy.

(Signature of ANANDEN.)

Witnessed by Arakce Pally Anandan, the writer hereof.

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No. 130.

No. 5.

## D E E D O F T R A N S F E R.

By Parrangol Illatta Narraynan, Numbiddy Atchen Poodiyettalla Cowillam-  
baron Ramen Nambayar.

The Nambayar owes me silver fanams seventy-five, (rupees fifteen,) on a deed executed on the 29th Meenom 1006, (10th April, 1831,) for which he mortgaged his Pannyan slave Caroomaten, the amount of which deed, with interest, has not been paid to this day. Therefore the above sum being fanams seventy-five, bearing interest up to this day fanams  $9\frac{3}{4}$ , together fanams  $84\frac{3}{4}$ , deducting wherefrom rupees four, (fanams twenty,) paid in the month of Meenom, on account of the Nambiar by Koordypraven Kallapen, the balance due to me by the Nambiar, on account of principal and interest is fanams  $64\frac{3}{4}$ , which, together with the deed executed to me by the Nambiar and this writing, I have made over to Taliyil Padingara Veettil Krishnan of Koottiyady in discharge of my debt to him, for payment of which he has been pressing me. If that deed and this writing are received from Krishnan, and the sum of fanams  $64\frac{3}{4}$  is paid to him, I shall be satisfied.

(Signature.)

29th Idarom, 1007.

9th June, 1832.

No. 131.

No. 6.

I. S.

## S U N N U D.

Granted by the District Moonsiff of Wynaad to Metile Madatil Soorgaun Putter of Vaingatterry Gramom, in the Nallonaad Deeshom.

On the sale by auction of the property of the defendant Colly Kooa Cooppatodda Chandoo, attached in execution of the decree in cause No. 117 of 1833, on the file of this Court, passed against him in favor of the plaintiff Devesha Nurrana Putter, three slaves, named Onnan, aged about forty-five years, Coodbookan, aged forty years, and Carroopan, aged eighteen years, being in the proprietary right of the defendant were purchased by you, on the 27th Tulam 1011, (11th November, 1835.) The deposit of fifteen per cent. of the purchase money rupees 11-11-2 having been delivered by you to the Amcen, on the 13th November, and the balance rupees 66-4-10, having been paid by you into this Court on the 23d December, making together rupees seventy-eight, this Sunnud is granted to you under the seal and signature of this Court, in order, that you may from henceforth have the same possession and use of the said slaves, as has been enjoyed hitherto by the defendant.

(Signed) RAMAYEN, *Moonsiff.*

12th Cumbhom, 1011.

22d February, 1836.

*From the Secretary to the Indian Law Commission to the Acting Register Sudr Udalut, Madras, dated the 10th August, 1839.* No. 132.

The attention of the Law Commission has been drawn to a case which it appears, was under the consideration of the Court of Sudr Udalut in their proceedings, under date 31st March, 1837, in which, according to the note printed in Mr. G. L. Prendergast's compilation of the Court's orders, "the Sudr Udalut informed the Zillah Judge, that he may properly refuse to do more than has been already done by the Courts,—viz. authorize a sale of slaves *with* the estate or land to which they belong;" and being desirous to obtain all the information they can, bearing on the question, whether or not the agrestic slave is liable to be sold separately from the land to which he has been attached from birth, they request,—that with the permission of the Judges, you will furnish them with a copy of the Court's proceedings in the case referred to, and a copy of the proceedings of the Provincial Court and the reference from the Zillah Judge, which the Court had under consideration,—and that you will be so good as to transmit them to this office as soon as possible.

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*From Mr. G. Bird, Judge, Zillah Court, Canara, to the Register to the Provincial Court of Appeal, Western Division, Tellicherry, dated 17th January, 1837. This was forwarded in the letter of the Register, Madras Sudr Udalut, dated 26th August, 1840, in consequence of the foregoing. It had been obtained through the Provincial Court of the Western Division.* No. 133.

I have the honor to request, that the accompanying copy of an original and appeal decree, the application for special appeal, together with my reasons for admitting that special appeal, may be forwarded for the opinion of the Judges of the Court of Sudr Udalut, inasmuch as I consider it doubtful, whether I should be justified in allowing the award to be carried into execution.

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No. 134. *Decree passed by the Barcoor Moonsiff, in Original Cause, No. 126 of 1835, on the 29th July, 1835.*

HOSSAMUNAY MANDDA-  
WANNA SHETTY, residing in the  
Hondady Village, BRUMAWHAR  
MOGANY, in the Barcoor Talook,

*versus*

1. SEEVY SHETTY.

2. His younger brother HON-  
NIYA, both nephews of HOSSA-  
MUNAY POMMA SHETTY, and  
younger brothers of SOOBBIYA  
SHETTY, residing in the said  
Hondady Village.

3. BENNAYCOODRA KROO-  
SHNA SHETTY.

The plaintiff in his plaint states, that the first and second defendants' elder brother Soobbiya Shetty, on the 8th Ashweeja Bahoola of the year Veya, mortgaged to him for 2½ hoons, his two slaves, viz. a female Dher named Honnoo, and a male Pardeshey, together with their offspring, and made them over to him; that while they were in his possession, Soobba Shetty died, and the first and the second defendants succeeding to his (Soobba Shetty's) property, they further executed a document to him for hoons 4-8-12, on account of a balance against themselves of rice, &c. making a total mortgage on the slaves of hoons 7-3-12; that the third defendant attached the aforesaid slaves, as also their children, which are his (plaintiff's) mortgage right for an alleged amount of a decree obtained by him against the above-mentioned Soobbiya Shetty; that as the mortgage amount of 2½ hoons was alone admitted, and the 4-8-12 hoons received by the first and second defendants executing the above document, were denied, he (plaintiff was ordered to institute a suit;) that he therefore brought this for the release from attachment, of the following slaves being his mortgage right, viz. a female Dher named Honnoo, valued at ten rupees, a male Pardeshey, valued at six rupees, together with two little children born of the aforesaid Honnoo, and worth rupees four, viz. Sanuyaroo and the other Panchoo.

The first and second defendants in their answer admit, that their elder brother Soobba Shetty mortgaged to the plaintiff the aforesaid slaves, for 2½ hoons, but deny their having executed the documents to the plaintiff, for a further sum of 4-8-12 hoons on the mortgage of the said slaves, or having received from him any thing, and assert, that there was no reason to mortgage slaves of less value for a high amount; that the plaintiff in the month Kartingul of the year Jaya, preferred a magisterial complaint against the second defendant, regarding the slaves, in which complaint he (plaintiff) only mentioned the circumstance of Soobba Shetty's mortgage bond, but made no mention of the document said to have been executed by them; that if they had really executed such a document, the plaintiff would have, of course, mentioned it in the complaint, and that nothing is therefore due from them to the plaintiff.

The third defendant in his answer states, that as the slaves attached by him were really mortgaged to the plaintiff, for 2½ hoons, he admitted it in the arzee presented by him for attaching the property; that the plaintiff has fabricated a document as being executed by the first and second defendants for a further sum of 4-8-12 hoons, but that it is not a real one; that therefore the said slaves should be put up to sale in satisfaction of the amount of his decree, and the amount decreed paid to him from the remaining amount of proceeds, after paying to the plaintiff, the

sum of ten rupees due on account of the first and second defendants' ancestor Soobbiya Shetty's mortgage.

The plaintiff filed the following document, viz. one, a document, on plain paper, purporting to have been executed to the plaintiff by the first and second defendants, under their signatures on the second Shrawuna Bahoola of the year Vejya, in the hand writing of Anna Shetty, and under the attestation of Chickiya Shetty, Antaya Shetty and Seevoy Bhundry, stating that "Accounts having been adjusted this day, of the rice and cash formerly received by us from you, four hoons are due; this amount as also hoon 0-7-8, the value of two mooras of rice, received by us this day, together with ready cash hoon 0-1-4, total hoons 4-8-12, we engage to pay you by the 30th Mauga Bhol of this year, together with interest thereon, and if we should fail to make good the amount by that period, we again bind ourselves to pay the said sum of hoons 4-8-12, with interest thereon, by the 8th Aswuja Bahoola of the year Veya, when we would redeem the mortgage bond executed to you by my elder brother Soobba Shetty, for the slaves, and to get back this document and redeem the slaves."

The plaintiff cited the aforesaid four witnesses to prove, that the said document was executed by the first and second defendants.

The defendants represented that they had no evidence to adduce to disprove the document.

Subsequently, the first and second defendants presented an arzee, stating that if the plaintiff should take the oath called "Aghera Prumuna" before the Mudkarry Somanatha Idol of Barcoor to the effect, that the document in question was really executed by them and not fabricated, they were ready to pay the whole amount, or that they would take their own oath at the place appointed by the plaintiff, to the effect, that the document was not executed by them or that if the plaintiff should refuse to the decision of the suit on the oath of either party his (plaintiff's) witnesses might be examined on the oath "Aghora Pramuna," before the said Idol, with their examinations before them.

Regarding this proposal, the plaintiff and the third defendant being questioned, the latter stated, that he was unwilling to abide by the plaintiff's oath, and the plaintiff said, that as he had documental and oral proof, it was unnecessary for him to take such an oath as the one proposed by the first and second defendants, and that he was unwilling to get the suit decided by their (first and second defendants') oath. The plaintiff's witnesses in attendance, viz. 1, Anna Shetty, 2, Suvoy Bhundry alias Seevoy Shetty, 3, Antoy Shetty, and 4, Chickiya Shetty, being informed of the proposal of oath made by the first and second defendants, they declared, that they would depose to the circumstances within their knowledge taking their oath in the Cutcherry itself, but that it was unnecessary for them to go and take their oath at the Dewusthan. For this reason, an oath was administered to the said four persons in the Cutcherry as usual, and they were examined.

On consideration of the proceedings of the case, the Moonsiff proceeds to give the following decision.

The first witness, the writer of the document in question, and the second, third and fourth, the attesting witnesses thereof, depose on oath, that on the date of the document, the first and second defendants made a verbal adjustment of accounts at the house of Chinniya Shetty before them with the plaintiff, and with their own and free will executed to him (plaintiff,) the document in question on the pledge of the aforesaid slaves, for four hoons, that appeared against them, as also for three

rupees, the value of two mooras of rice, which they said they would receive that day, together with half a rupee, total hoon 4-8-12; that the first and second defendants said, they intended to receive the two mooras of rice and the half rupee mentioned in the document, and the plaintiff that he would give the same on going home; and that the plaintiff accordingly went to the house along with the first and second defendants. Therefore, the execution of the document in question by the first and second defendants to the plaintiff appeared to have been satisfactorily proved by their evidence. The fourth witness alone deposes to his having seen the plaintiff give to the first and second defendants from his house, the two mooras of rice and ready cash hoon 0-1-4, mentioned in the document, but as the remaining three witnesses did not see the same, the evidence of the fourth witness alone is not to be admitted. Yet the said four witnesses having deposed consistently to the defendants having admitted the four hoon mentioned in the document in question as being due on former dealings and executed the document, there appeared no reason, why the item of the said four hoon should be disbelieved, merely in consequence of there being no satisfactory proof to the payment of the two mooras of rice and half rupee. As the third defendant, who attached the slaves, the subject of this plaint, refused to the proposal of oath and failed to make any representation as to the plaintiff's witnesses being caused to take their oath in the pagoda, and as all the three defendants stated, that they had neither documental or oral proof to disprove the document in question, the plaintiff's claim appeared valid. With regard to the statement made by the defendants in their answer, that it was not usual to obtain on mortgage slaves of less value for a high sum of money,—the plaintiff and the said defendants being examined, the former stated that as the first and second defendants have no property, and as all the children which would be born of them would remain as a pledge for his mortgage amount, he obtained on mortgage the slaves though of low value for a high sum. The defendants admit, that all the children, the slaves under mortgage may bear, remain as a pledge for the mortgage amount and that the first and second defendants have no property. Therefore, the fact of the plaintiffs having obtained on mortgage the slaves of low value for a higher amount, does not appear improper. With regard to the statement made by the defendants, that the plaintiff did not mention the document in question in the Magisterial complaint, the plaintiff being questioned, he represented that the said complaint was on account of an assault, that the aforesaid first and second defendants having admitted the mortgage before the Magistrate, the slaves were ordered to be returned to him by the Magistrate, and that he did not think it necessary to make any particular mention of the document in question in that complaint, which was preferred for his being forcibly dispossessed then of the slaves. With regard to this statement, the first and second defendants themselves admit, that the said complaint was preferred for an assault. Therefore, the assertion made by them, that the document in question was not mentioned in the Magisterial complaint, can be of no advantage to the defendants in this suit. Under all the abovementioned circumstances, it having been fully proved that the plaintiff has enjoyed the slaves in question as mortgage for  $2\frac{1}{2}$  hoon, for which the aforesaid Soobbiya Shetty executed a mortgage bond, as also for four hoon out of the amount of the document in question, total hoon  $6\frac{1}{2}$ , and the fact of the said slaves being attached before the said amount, was repaid to the plaintiff, appearing improper, it is decreed, that the third defendant Kooshnappa Shetty do relinquish, from attachment, the four slaves valued at twenty rupees, as prayed in the plaint, and pay to the plaintiff Mandawunna Shetty the costs of suit.

*Grounds of the Appeal decree passed by the Moofly Sudr Ameen, in* No. 135.  
*cause No. 148 of 1835, on the 26th June, 1836.*

The third defendant of the original suit, KROOSHNA SHETTY, residing in the Honddady village, Brumawhar Magany, in the Barcoor Talook,

Appellant,

*versus* The plaintiff of the original suit MANDDAWUNNA SHETTY, residing in the said Village, Respondent.

The appeal petition as well as the original proceedings were perused, and the appellant and the respondent's vakeel examined.

On consideration of the circumstances of the case, the Sudr Ameen Moofly is of opinion, that as the witnesses examined in the original suit regarding the disputed document on behalf of the respondent, differ so materially in their evidence, and as Antoy Shetty and Seeroy Bhundry, the attesting witnesses of the said document, are both related to the respondent, their evidence could not be held credible. Consequently, thinking the Moonsiff's decree making the slaves in question responsible for the amount of both documents, to be unjust, the Moofly Sudr Ameen reverses it accordingly, and decrees, that the four slaves in question under attachment shall be put up for sale, and the ten rupees due on the first document, deducted from the proceeds of sale according to the appellant's admission, and the remaining amount of proceeds paid to him (appellant,) on account of the amount of the decree obtained by him, against the first and second defendants' ancestor Soobbiya.

Costs to be paid by the parties respectively.

(Signed) SYED ABOOL KASSIM,  
*Sudr Ameen Moofly of the Zillah of Canara.*

*Special Appeal petition preferred by Mandawunna Shetty, residing* No. 136.  
*at Honddady Village, in the Barcoor Talook, dated the 15th July,*  
*1836.*

The document in question executed by the first and second defendants for nineteen and half rupees, on the pledge of the slaves in dispute, is satisfactorily proved by the witnesses examined in the original suit in my behalf, as appears from the original decree itself. Of the said witnesses Seevoy Bhundry alone is a distant relation of mine, but the remaining three witnesses are not related, such being the case, and notwithstanding, the said witnesses deposed consistently to the material points in the suit, the Moofly Sudr Ameen has considered; that the witness Antoy Shetty is related to me, that they fell into discrepancies in giving evidence, such is not the case, and his decree is inconsistent with justice and equity. I therefore pray, that the aforesaid circumstances as well as the original and appeal proceedings may be perused, the appeal decree reversed, and the original confirmed.

(Signed) MANDAWUNNA SHETTY.



No. 137.

*Special Appeal Petition, No. 641.*

The special appeal is admitted not to question the degree of credit, that should or should not be attached to the evidence adduced, but to ascertain from the Superior Courts, whether the existing regulations authorise a transaction of the kind awarded by the Sudr Ameen Moofy.

(Signed) G. BIRD, *Judge.*

September, 22d 1836.

(True Copies)

(Signed) GEORGE BIRD, *Judge.*

No. 138.

*From Mr. W. Douglas, Register, Sudr Udulut, to the Provincial Court in the Western Division, dated 6th February, 1837.*

I am directed by the Judges of the Court of Sudr Udulut to acknowledge the receipt of your letter, dated the 20th ultimo, forwarding for their orders, copy of a letter from the Judge in the Zillah of Canara, dated the 17th of the same month, and the original enclosure which accompanied it, in which the question proposed for the determination of the Court would appear to be, whether or not a sale of slaves can be legally awarded by a Court of Judicature.

The sentiments of the Provincial Court not having been recorded on the question, the Judges desire you will submit your opinion on the point propounded with as little delay as possible.

No. 139.

*From Mr. W. B. Anderson, 3rd Judge, for Register, Provincial Court, Western Division, to the Register to the Court of Sudr Udulut, Fort St. George, dated 24th February, 1837.*

Para. 1. With reference to your letter of the 6th instant, I am directed to forward, to be laid before the Judges of the Sudr Udulut, copies of a further correspondence with the Judge of Canara on the same subject.

2. It will be observed, that the point that officer wishes to be referred is, "whether an award of slaves is authorized by a British Court of Judicature, and whether, as in the case in question, they can be legally ordered by him as a subject of His Majesty's Government to be brought to the bazar and sold."

3. It will be observed also, that the Zillah Judge requests he "may not be required to give an opinion upon a point on which he believes considerable doubts may be entertained."

4. The Judges of the Provincial Court feel some difficulty in submitting their opinion on the point propounded by the Zillah Judge; indeed they have great

doubts as to the expediency of the question, as that Officer has put it, being answered at all, without more full and satisfactory information on the subject than, it is believed, the Courts possess at present. It appears to them, that until the subject is set at rest by an express legislative enactment, the less it is mooted in this way the better. And the Judges will take this opportunity of observing, that they know of no subject on which a local enquiry by the Law Commissioners as contemplated in the opening part of Section LIV\* of the Act of Parliament, commonly called the Charter, would be more urgently necessary than that of slavery in Malabar and Canara.

5. The Judges believe they are warranted in asserting, that in the provinces of Malabar and Canara, the sale of slaves, except with the estate or land to which they may belong, has never been authorised by the courts. There is however no doubt, that the custom is common, in both districts, of transferring slaves by mortgage or sale, independently of the land, by private contract; though it is understood, that such transactions are generally between neighbouring landholders, and that the slaves are seldom removed to a greater distance than a day's journey, and then only with their own consent.

6. It occurs to the Provincial Court, that the best mode of disposing of the Zillah Judge's reference will be, to direct him to confine himself to the actual circumstances of the case which has given rise to it. He may then perhaps find, that the decree of the Moofly Sudr Ameen in Appeal, No. 148 of 1835, from which the Zillah Judge has admitted a special appeal, is irregular in adjudging the slaves to be sold, for a reason on which a doubt can hardly arise, viz. that their sale had not been sued for—on the contrary, the original action, in which a decree was given by the Moonsiff in the plaintiff's favor, was brought in order to remove the attachment of the slaves, on the ground, that the plaintiff held a mortgage claim on them. When therefore, in disposing of the appeal, the Sudr Ameen considered the plaintiff to have failed in establishing his claim, he should have confined himself to dismissing that claim. He had clearly no right to go beyond that, and to decree, as he did, that the slaves should be sold.

*From Mr. W. B. Anderson, 3d Judge, for Register, Provincial Court Western Division, to the Judge of Canara, dated 13th February, 1837.* No. 140.

With reference to your letter and accompaniments of the 17th ultimo, and to the annexed copy of one from the Register to the Sudr Udalut, dated the 6th instant, I am directed by the Judges of the Provincial Court to request, that you will state more particularly the point you wish to be referred, as also your own opinion thereon.

\* " And be it enacted, that the said (Indian Law) Commissioners shall follow such instructions, " with regard to the researches and enquiries to be made and the places to be revisited by them," &c.

No. 141. *From Mr. G. Bird, Judge, Zillah Court, Canara, to the Register to the Provincial Court of Appeal, Western Division, Tellicherry, dated 17th February, 1837.*

I have the honor to acknowledge the receipt of your letter of the 13th instant, (annexing copy of a communication from the Register to the Sudr Udalut) with a request from the Judges of the Provincial Court, that I should state more particularly the point which I required a reference upon in my letter and accompaniments of the 17th ultimo, and in reply to state, that the point I solicit the opinion of the Superior Courts upon, is, whether an award of slaves is authorized by a British Court of Judicature, and whether, as in the case in question, they can be legally ordered by me as a subject of His Majesty's Government, to be brought to the bazar and sold.

2. Prior to making the present reference, I examined several decrees amongst the records of the Court, to see if an award similar to the one under discussion could be found, but I observed in most claims for slaves, there was a claim for land, and that slaves apparently went with the land, but had never been ordered to be sold in the way specified in this decree.

3. Under these circumstances and in the absence of all "specific rule" for my guidance, and with the provisions of the 88 Section of the late Act before me, I considered it preferable to solicit instructions from the Superior Courts, and having done so, to request that I may not be required to give an opinion upon a point on which I believe considerable doubts may be entertained.

No. 142. *Extract from the Proceedings of the Sudr Udalut, under date the 31st March, 1837.*

Read letter dated the 24th ultimo, from the Provincial Court of Appeal in the Western Division, submitting with reference to the letter from this Court, dated the 6th February, 1837, copies of a further correspondence with the Judge of Canara, in which the point referred is "whether an award of slaves is authorized by a British Court of Judicature, and whether as in the case in question they can be legally ordered by him as a subject of His Majesty's Government to be brought to the bazar and sold."

1. The Provincial Court state, that "they feel some difficulty in submitting their opinion on the point propounded by the Zillah Judge, and that they have great doubts as to the expediency of the question, as that officer has put it, being answered at all without more full and satisfactory information on the subject than it is believed the Courts possess at present"—that "the Provincial Court believe they are warranted in asserting, that in the provinces of Malabar and Canara, the sale of slaves, except with the estate or land to which they may belong, has never been authorized by the Courts. There is, however, no doubt, that the custom is common, in both districts, of transferring slaves by mortgage, or sale, independently of the land, by private contract; though it is understood, that such

## APPENDIX IX.

"transactions are generally between neighbouring landholders, and that the  
"slaves are seldom removed to a greater distance than a day's journey, and  
"then only with their own consent;"—but that "it occurs to them, that the  
"best mode of disposing of the Zillah Judge's reference will be to direct him  
"to confine himself to the actual circumstances of the case, which has given  
"rise to it. He may then perhaps find, the decree of the Moofy Sudr Ameen in  
"appeal, No. 148 of 1835, from which the Zillah Judge has admitted a special  
"appeal, is irregular in adjudging the slaves to be sold; for a reason on which a  
"doubt can hardly arise, viz. that their sale had not been sued for: on the con-  
"trary, the original action in which a decree was given by the Moonsiff in the  
"plaintiff's favor, was brought in order to remove the attachment of the slaves, on  
"the ground, that the plaintiff held a mortgage claim on them;"—that "when there-  
"fore, in disposing of the appeal, the Sudr Ameen considered the plaintiff to have  
"failed in establishing his claim, he should have confined himself to dismissing  
"that claim,"—that "he had clearly no right to go beyond that, and to decree as  
"he did, that the slaves should be sold."

2. The Court of Sudr Udalut are of opinion, that the course proposed by the Provincial Court should be followed.

3. The Zillah Judge may properly refuse to do more than has already been done "by the Courts," as stated in para. 5 of the Provincial Court's letter, namely, authorize a sale of slaves with the estate or land to which they belong.

4. And as it is known, that legislation on the subject of slaves is contemplated, the Court would on that ground advise the Zillah Judge to confine his sanction at present, to such orders as he finds to have been passed on former occasions by the Zillah Court, and refuse compliance with any novel application on the subject.

5. Ordered, that extracts from these proceedings be forwarded to the Provincial Court of Appeal in the Western Division for their information.



## APPENDIX X.

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### *Emancipation of Slaves on Government Estates in Malabar.*

- No. 1. From Secretary Board of Revenue to Chief Secretary to the Government of Madras, dated 24th October, 1836.
- No. 2. From Principal Collector of Malabar to Secretary Board of Revenue, Madras, dated 11th July, 1836.
- No. 3. From Secretary Board of Revenue to the Principal Collector of Malabar, dated 12th September, 1836.
- No. 4. From Principal Collector of Malabar to Secretary to Board of Revenue, dated 20th September, 1836.
- No. 5. Resolution of Government, dated 15th November, 1836.
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## APPENDIX X.

EMANCIPATION OF SLAVES ON GOVERNMENT  
ESTATES IN MALABAR.

No. 1. *From Secretary Board of Revenue to Chief Secretary to Government of Madras, dated 24th October, 1836.*

From the Provincial Col-  
lector.

11th in Cons. 28th July,  
1836.

To do. 12th Sept. "

From do. 20th Sept. "

In Cons. 6th Oct. "

Para. 1356 of Mr. Græme's  
report to Government, dated  
14th January, 1832.

I am directed by the Board of Revenue to request, that you will submit, for the orders of the Governor in Council, the correspondence noted in the margin, upon the subject of emancipating the slaves on the Government lands in the district of Malabar.

2. The lands in question, are those, which escheated to Government, and are treated of in Mr. Græme's report noted in the margin: and from the slaves attached to them, the Government have yearly derived a revenue, which Mr. Clementson requests permission to exclude from his accounts, proclaiming to the slaves their freedom.

3. Adverting to the observation contained in the 9th para. of a letter from the Government of India to the Commissioner of Coorg, dated the 12th October, 1835, transmitted to the Board, with the extract from the Minutes of Consultation, dated the 24th November, that "the legislature has already laid down the humane principle, that the extinction of slavery in India is to be effected, as soon as it may be practicable and safe to do so,"—the Board have no hesitation in recommending that Mr. Clementson's request be complied with

4. The amount of annual revenue, which will be lost to Government in the event of the slaves being manumitted, is rupees 927-13-0, and may appear as a deduction in the jummabundee accounts.

In Cons. 7th December,  
1835.

(No. 47.)

No. 2. *From Principal Collector of Malabar to the Secretary to the Board of Revenue, Fort Saint George, dated 11th July, 1836.*

With reference to the 34th para. of my letter, under date the 18th March last, I have now the honor to forward the statement, therein alluded to, and to request that the sanction of Government may be obtained for my excluding from the accounts, the sum of rupees 168-9-2, the Puttom received from the occupants of the Government lands, on account of the slaves attached thereto, and of proclaiming to these poor people, the order of Government that they are free men.

2. It will be necessary to grant remissions to the extent of rupees\* 759-3-10, on account of the rent paid for slaves, which is at present blended with the rent of lands leased out to several ryots, for which also I beg to request sanction.

\* Amount in Col. 16 of  
the statement, ... 927 13 0  
Ded. do. in Col. 13, 168 9 2

Dif. 759 3 10

# ALABAR.

TALOOK.		REMARKS.
1	21	22
Calicut,.....	0	The total number of Slaves in Col. 6, may be divided as follows:
Coormenaad, ...	0	Slaves attached to Lands belonging to Govern-ment,..... 171
Ernaad, .....	290	Ditto ditto to Lands escheated to Government,... 1718
Sheernaad, .....	42	Ditto ditto to Lands lapsed to Government for want of Heirs,..... 120
Betutnaad, .....	0	2009
Chowghaut, .....	71	The rent entered in Col. 13, is for part of the Slaves only. The rent receivable for the others (forming a greater portion) is blended with the amount payable by each lessee, the proportions for Lands and Slaves, not being distinctly shewn in the lease. Calculating the rent according to the usage of the country—it will, as shewn in Col. 16, amount to Rupees ..... 927 13 0
Kootnaad,.....	0	
Nedinganaad, ....	5	
Walloowanaad, ,	19	
Paulghaut, .....	59	
Temalpooram, ...	49	
Wynaad, .....	86	
Kavay, .....	0	
Chericul, .....	0	
Cotiate,.....	23	This list includes the 122 Slaves alluded to in the 31st paragraph of the Report, dated the 18th March 1836.
Kartenaad, .....	0	
Cochin, .....	0	
Neilgherry, .....	0	
	44	

Errors Excepted,

F. CLEMENTSON, *Principal Collector.*





*From Secretary Board of Revenue, to the Principal Collector of Malabar, dated 12th September, 1836.* No. 3.

Para. 1. The statement which accompanied your letter noted in the margin\* having been mislaid, I am directed by the Board of Revenue to request that you will submit a duplicate copy of it. \* 11 in Cons. 28th July, 1836.

2. I am also directed to request that you will explain the difference between the nature of the remissions noticed in the 1st and 2d paragraphs of your letter.

*From Principal Collector of Malabar, to the Secretary to Board of Revenue, dated 20th September, 1836.* No. 4.

2. In reply to the 2d para. I beg to explain, that in leasing out the lands belonging to Government, together with the slaves attached thereto, the relative proportion of the rent payable for the lands and slaves, has, but in very few instances, been distinctly specified in the deeds; the majority of them only mention the total annual amount payable by the lessees both for the lands and slaves. The amount entered in col. 16, of the statement, viz. rupees 927-13-0, is the proportion of rent payable to Government on account of the slaves, calculated according to the usages of the country. Of this, rupees 168-9-2, is specifically mentioned in the deeds, the residue rupees 759-3-10, is an estimated amount—both forming part of the gross Junma. It will be necessary to strike off the same therefrom, as the lessees will be entitled to remissions to that extent in the event of the slaves, for whose services they now pay, being emancipated, as recommended.

*Resolution of Government, dated 15th November, 1836.*

No. 5.

Para. 1st. The Right Honorable the Governor in Council is pleased to accede to the recommendation conveyed in the foregoing letter in favor of emancipating the slaves on the Government Lands in Malabar. The amount of annual revenue to be relinquished on this account, is stated to be rupees (927-13-0) nine hundred and twenty-seven and annas thirteen, which, as suggested by the Board, may appear as a deduction in the Jumma bundec accounts.

2d. The Board of Revenue will instruct the Principal Collector of Malabar, relative to the mode of conveying this resolution to the parties concerned. It seems to be unnecessary to *proclaim* the freedom of these slaves, as proposed by the Principal Collector; but, on the contrary, it is considered very desirable that the measure should be carried into effect in such manner as not to create any unnecessary alarm or aversion to it, on the part of other proprietors, or premature hopes of emancipation on that of other slaves.



## A P P E N D I X   X I.

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### *Crimes committed by Cherma Slaves in Malabar. Means of improving them.*

- No. 1. Extract Proceedings of Foujdaree Udalut, 14th October, 1837.
- No. 2. ——— Report of first Judge, late on Circuit, Western Division, 16th August, 1837.
- No. 3. ——— Orders of Government, 24th October, 1837.
- No. 4. Secretary Board of Revenue to Secretary to Government, dated 15th October, 1838.
- No. 5. Principal Collector of Malabar to Secretary Board of Revenue, dated 24th April, 1838.
- No. 6. Extract Minute of Consultations, 30th November, 1838.
- No. 7. Secretary Board of Revenue to Chief Secretary to Government, 21st February, 1839.
- No. 8. Principal Collector of Malabar to Secretary Board of Revenue, 7th January, 1839.
- No. 9. Extract Minutes of Consultation, 12th March, 1839.
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## APPENDIX XI.

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### CRIMES COMMITTED BY CHERMA SLAVES IN MALABAR; THEIR MORAL STATE; MEANS OF IMPROVING THEM AND AMELIO- RATING THEIR CONDITION.

No. 1. *Extract from the Proceedings of the Foudaree Udalt, dated the 14th October, 1837.*

\* Vide infra from 1st  
Judge of Circuit, dated 16th  
August, 1837, No. 2.

The Court of Foudaree Udalt have observed, and they think it worthy of the notice of Government the remarkable fact stated in the 4th paragraph of the above\* report, "that out of thirty-one murders perpetrated and tried during the last and present sessions—thirteen were committed by that degraded class of people the Chermars." The Foudaree Udalt beg to recommend to Government, that the local Officers be called upon to report whether measures cannot be devised for improving the condition and morale of this most degraded race, possessing of humanity little else than its outward form.

No. 2. *Extract from a Report from the 1st Judge, late on Circuit in the Western Division, dated the 16th August, 1837.*

No. 5. 4. In this case,\* the prisoners were all Churmars, and it may perhaps be worthy of remark, that out of thirty-one murders perpetrated and tried during the last and present Sessions, (vide marginal Note,) thirteen were committed by this degraded and low class of people, who, in the commission of such deeds, appear to have been void of all feeling; and perhaps will remain so, till some measures be devised for the improvement of their morals and present lamentable low condition in society.

2d Sessions 1836	Cases	Prisoners.
Perpetrated by {		
Churmars, .....	22	31
1st Sessions 1837,	9	13
Perpetrated by {	9	17
Churmars, .....	4	6

5. It would nevertheless be needless to expect, that any material or essential change can possibly be brought about, except step by step, and at a period, when they may have attained a greater degree of civilization calculated to extend their mental faculties, and open their eyes as to their present situation. This accomplished,

and the pleasing prospect, will begin to brighten, of being able to ameliorate the present condition of this unfortunate, and no less, illtreated race of fellow creatures. Whereas, any steps, prematurely adopted with the view of affording them relief, before they are in a fit state to benefit by, or duly estimate emancipation from slavery, may irrecoverably tend to frustrate the grand object sought for in the relapse of a great portion to their former state of bondage, even if once liberated; for it is not quite clear, if, and to what extent, they are discontented with their present state of servitude assigned by birth, and inculcated on them from infancy by local usages.

*Extract from orders of Government, dated 24th October, 1837,* No. 3.  
No. 986.

Para. 1st. The Board of Revenue to whom a copy of para. 1 of the foregoing proceedings,\* and of paras. 4 and 5 of the Circuit Judge's report will be transmitted, will be requested to consider in communication with the local officers, and report as to the measures it will be advisable to adopt, with the view of ameliorating the condition and improving the morals of the unfortunate class of people adverted to therein.

\* Of Foujdaree Udalt.

*From the Secretary Board of Revenue, to the Chief Secretary to* No. 4.  
*Government, dated 15th October, 1838.*

The Board of Revenue, having furnished the Principal Collector of Malabar with copy of an extract from the Minutes of Consultation of the 24th October last, with transcript of extracts from the proceedings of the Foujdaree Court and of the 1st Judge, on Circuit in the Western Division, relative to the persons denominated Churmars in Malabar,—I am now directed to request you will lay before Government the accompanying letter from Mr. Clementson, submitting his sentiments on the practicability of improving the condition of this class.

24th April, in Con. 7th  
May, 1838.

2. The present reference originated on a consideration of the very large number of charges of murder in which this class of persons were concerned; thirteen of thirty-one cases of murder having been stated to have been committed by this degraded race, who were represented to be devoid of all feeling, and to possess little of humanity, but its outward form. It will be seen however, from Mr. Clementson's letter, that low and degraded though their condition is acknowledged to be, the number of atrocious crimes in which the Churmars were concerned, does not in the course of ten years exceed the proportion of their own numbers in

reference to the free population of the District. The late census, it is said, gives their numbers at 1,44,371, or about one-seventh of the population of the entire Province.

3. The Board regret they are unable, with the information now before them, to suggest any well digested scheme for the permanent improvement of this servile class. The immediate introduction of Schools does not appear to them calculated to ameliorate their condition; for the physical improvement of the Churmars, must precede, they are inclined to think, any extended efforts for their mental culture. The question of slave emancipation in the Western Province is one, attended with much difficulty; for it is observed by the first Judge on Circuit himself, that it is uncertain how far the Churmars are themselves discontented with their present state of servitude assigned by birth, and inculcated by local usage, and it is obvious, that no step should be prematurely taken to afford them relief until they are in a fit state to benefit by the change. However, much then their present state of bondage is to be lamented, the measures taken for its amelioration must be gradual, and carried out with discretion and in concurrence with the landholders on whose estates they are located—any hasty legislation on this subject would otherwise occasion much discontent, and be considered as an invasion of private rights.

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No. 5. *From the Principal Collector of Malabar, to the Secretary Board of Revenue, dated 24th April, 1838.*

I do myself the honor to acknowledge the receipt of the Board's Proceedings, under date the 2d November last, conveying copy of an extract from the Minutes of Consultation, dated the 24th of the preceding month, on the subject of the best measures to be adopted with the view of ameliorating the condition, and improving the morals of the unfortunate class, known generally by the name of Churmars.

2. However desirable the consummation of such an object may be, I confess, I am at a loss to suggest any plan which may not involve a violation of the rights of private property, and consequently give rise to much discontent.

3. The only way of improving the morals of the predial or rustic slaves of Malabar would be by ameliorating their condition, and by establishing schools. This has, I understand, been attained to a very satisfactory extent, as regards the slaves attached to Mr. Brown's estate at Anjeracandy, and it appears very evident to me, that any permanent improvement in their condition and morals must emanate from the master of the slave; and this can alone be done by bettering his condition, and thus enabling him to increase the comforts of the slave; to treat him with greater indulgence, and to dispense partially with his services. A measure that can only be effected, I apprehend, by a relinquishment of Revenue, and the establishment of schools throughout the district.

4. It is satisfactory to remark, to the credit of this degraded race, that on reference to the accounts for the last ten years, the murders committed by them, do not exceed the number annually committed by the free castes; the average number of murders committed by Churmars being less than (5) five cases, and (10) ten persons per annum. This from a population of 1,44,371, (the number of slaves of all

descriptions, according to the last census) is not perhaps more than occurs amongst the more civilized parts of the population of other districts.

5. The proportion which the aggregate number of slaves bears to the general population\* of the district, is a fraction above 1-7th, which corresponds with the share of murders that falls to them; for out of thirty-six cases, (the average of the total number of murders) five only were, as already noticed, committed by Churmars.

11,40,916.

*Extract from the Minutes of Consultation, under date the 30th* No. 6.  
*November, 1838, upon letter from Board of Revenue, dated*  
*15th October, 1838.*

The improvement of the condition of the Churmars or rustic slaves of Malabar, is a subject of such manifest importance, that no measures should be left untried to effect it. The Right Honorable the Governor in Council does not consider a legislative enactment to be expedient at this moment in furtherance of the object in view, but presumes, that endeavours may be made to have them better fed and clothed, by offering rewards and encouragement to such landlords as may be able to show, that the condition of their slaves has been bettered. This would be a first step, and when physically improved, schools might be opened with advantage. He desires therefore, that the Principal Collector may be called upon to report how the Churmars are fed, clothed and lodged as compared with the free classes, and what description of reward he would recommend to be given to landlords for the improved condition of their slaves.

His Lordship in Council observes, that the Honorable the Court of Directors have, in para. 17 of their despatch, dated the 17th August last, approved of the measures adopted by this Government for the emancipation of the slaves on the Government lands of this district, and have directed, that means may be devised for extending a similar benefit to the slaves on the estate of private individuals. He resolves accordingly to transmit a copy of the above paragraph to the Board of Revenue, in view to the subject receiving their consideration in connection with the present reference.

His Lordship in Council is also desirous of knowing whether the antient tenures upon which slave property was held in Malabar, are still maintained, viz. whether the proprietor of slaves has still the power of mortgaging them and of letting them out for hire, as well as of selling them; whether they can be separated from the land and sold, and whether children can be sold separate from their parents.

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No. 7. *From Secretary Board of Revenue to the Chief Secretary to Government, dated 21st February, 1839.*

7th January 1839.

With reference to the observations recorded in the Minutes of Consultation of the 30th November last, I am directed by the Board of Revenue to request you will lay before Government the accompanying further\* letter from the Principal Collector of Malabar, reporting upon the condition of the Churmars, or rustic slaves of Malabar, and replying to the various points noticed by Government in the proceedings under acknowledgment.

2. It will be seen from this letter, that although no material change in the clothing and food of this class has been made since 1822, a decided improvement in their treatment by their masters has taken place. Mr. Clementson adds that the Churmars are by no means in a worse condition than many of the free field laborers in North Malabar, where there are few or no slaves. The Principal Collector also reports, that—though, the power of selling the slaves without the land, and children without the parent is claimed by the landlords,—in practice the proceeding is seldom or never adopted.

3. The Principal Collector suggests the expediency of offering a remission of land revenue to slave owners on satisfactory proof of the improved condition of each slave and of the owner being in the habit of treating them with kindness, and the Board will not lose sight of the proposition, although at present the suggestion is not before them in a shape sufficiently explicit to enable them to recommend its adoption by Government.

No. 8 *From Principal Collector of Malabar to Secretary Board of Revenue, dated 7th January, 1839.*

I have the honor to acknowledge, on the 24th, the receipt of the extract from the Board's proceedings under date the 6th ultimo, forwarding copy of the Board's letter to the Chief Secretary to Government under date the 15th October, together with a transcript of an Extract from the Minutes of Consultation thereon, under date the 30th November last, calling for further information as to the present state of the Churmar at Malabar.

2. In reply, I do myself the honor to state for the information of the Board, that no alteration has taken place in the tenures upon which slave property is held since the report made by Mr. Commissioner Graeme in 1822, an account of which is given in detail from paras. 32 to 55 little or no amelioration likewise has taken place in respect to their food and clothing; as regards the treatment, however, a decided improvement from all I can learn, has taken place—and it may be said generally, that the slaves of South Malabar, as noticed in my letter to the Chief Secretary to Government, under date the 29th November, 1833, are by no means in a worse condition than many of the free field laborers in North Malabar where there are few or no slaves.

3. Though the landlords and proprietors of slaves still retain the power of mortgaging and letting them out for hire, as well as of selling them with, or without the land, and the children without the parent, still I have reason to believe, that the latter proceeding is seldom or never adopted, in as much as the purchaser would find it an unprofitable speculation; for in the event of the Churmars running away which they invariably do, if taken even to the adjoining talook—they get no assistance from the local authorities. In further elucidation of this subject, I would take the liberty of submitting copy of a report made by me to the Provincial Court under date the 19th December, 1835.

4. The only means that suggests itself to me of inducing and ensuring kind and considerate treatment on the part of the landlords and owners of slaves, is to offer a remission of land revenue to all owners in double the amount for which slaves are now rented,\* on satisfactory proof of the improved condition of each slave and of the owner being in the habit of treating them with kindness.

\* See statement in the 34th para. of Mr. Grame's Report.

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*Extract from Minutes of Consultation under date 12th March, 1839.* No. 9.

The Right Honorable the Governor in Council observes, that no remission of land revenue can be granted without the authority of the Government of India; but His Lordship in Council will be prepared to give consideration to the measure, when submitted, in a proper form.

The Right Honorable the Governor in Council is satisfied, the Board will watch the subject of the improvement of the condition of the Churmars with that interest which it eminently merits, and leave no available means untried for effecting that object.

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## APPENDIX XII.

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### TRAVANCORE AND ANJENGO SLAVERY.

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#### TRAVANCORE.

##### *Account of Slavery in Travancore.*

- No. 1. Extract from the Manuscript Memoir of the Geographical and Statistical Survey of Travancore under the Superintendence of Lieutenants Ward and Connor.
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#### ANJENGO.

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##### *Correspondence as to Slavery in Anjengo.*

- No. 2. From Mr. H. Chamier, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Judicial Department, dated 6th June, 1837.
- No. 3. From Mr. J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, to the Chief Secretary to Government, Fort Saint George, dated 4th May, 1837, relative to the system of Slavery existing among the Portuguese inhabitants of Anjengo, within the limits of the British Territories, enclosed in No. 2.
- No. 4. From Mr. T. A. Philipsz, Superintendent of Police, Anjengo, to Colonel J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, dated 28th April, 1837,—regarding treatment of Slaves, enclosed in No. 3.
- No. 5. From Mr. J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, to the Superintendent of Police at Anjengo, dated 29th April, 1837.
- No. 6. From Mr. T. A. Philipsz, Superintendent of Police, Anjengo, to Colonel J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, dated 1st May, 1837, forwarding list of Slaves.
- No. 7. List of Slaves belonging to the Inhabitants of Anjengo, enclosed in above.

## APPENDIX XII.

### ACCOUNT OF SLAVERY IN TRAVANCORE.

No. 1. *Extract from the Manuscript Memoir of the Geographical and Statistical Survey of Travancore, under the Superintendence of Lieutenants Ward and Connor.*

Prædial Slavery.  
\* 'Tis nearly unknown in  
Nunjaynad.

Prædial slavery\* is common to a considerable portion of the Western Coast: but its extent throughout this principality is comparatively greater, and the prejudices of the people renders the degradation it entails more complete. Those subject to prædial bondage are known under the general term of Shurramukhul (children of slavery.) Their name is connected with every thing revolting: shunned as if infected with the plague, the higher classes view their presence with a mixture of alarm and indignation; and even towns and markets would be considered as defiled by their approach. The Shurramukhul are attached to the glebe,—but real property in absolute market value not much above the cattle united with them in the same bondage, and greatly below them in estimation. But though a slavery deserving commiseration, it is by no means the most rigid form of that wretched state. They are treated with a capricious indifference—rather rigorously. Much of this arises from the prejudices of the Nairs. The Christians have no such excuse, but though divided in caste, they agree in oppression. Personal chastisement is not often inflicted, but they experience little sympathy. In sickness, they are wholly left to nature, perhaps dismissed: in poverty, and in age often abandoned. Manumission is rarely practiced or even desired. Indeed as the Polayen never possesses property of any kind, his freedom could only be productive of starvation, or a change of servitude,—which occurs when he is presented to a temple in compliance with some superstitious vow. The Shurramukhuls are held by various tenures, and the reluctance of their masters finally to dispose of them is so great, that the most pressing necessity can alone induce them to it. They are most frequently mortgaged, or held in Punniem,—that is, the owner receives the full value, but retains the power of recalling the purchase,—tenures but little adapted to improve the situation of the slave, whose services being received as equivalent to the interest of the debt, holds out an inducement to urge his labours and diminish his comforts. They are not sold out of the country.

A very considerable number of prædial slaves belong to Government, to whom they escheat as other property on the failure of heirs. They are partly employed on Circar lands, partly rented out to the ryots. A male being rated at about eight purras of paddy annually, (not quite two rupees) the females less than this amount. If, however, hired from a Junmee (owner,) the demand would be much greater.

The value of a Polayen varies from six to ten pagodas; that of a female may reach perhaps to twelve, but (amongst some of the cast of Shurramukhuls) they are very rarely subject to sale.

In early times, the murder of a slave, was scarcely considered as a crime. The deed of transfer goes to say, "you may sell or kill him or her," the latter privilege has now of course ceased. The Shurramukhuls are only employed in agriculture. They live in hovels situated on the banks of the fields, or nestle on the trees along their borders to watch the crop after the toils of the day, and are discouraged from erecting better accommodation under the idea, that if more comfortable, they would be less disposed to move as the culture required. Their labours are repaid, (if such can be called the compensation) in grain. Three measures of paddy to a man, two to a woman, and one to a child, is their daily pittance. This is not regularly given being reduced to half on days which they do not work, and withheld entirely on symptoms of refractoriness. Harvest is a period of comparative plenty: but their meagre squalid appearance betrays the insufficiency of their diet, and the extreme hardships to which both sexes are equally doomed.

They, have no idea beyond their occupations, are never guilty of violence to their masters, are said to be obedient, perhaps from the sluggish apathy of their character, which renders them unmindful of their lot. The external distinctions of the prædial slaves are subject to great varieties. They are sometimes remarkable for an extreme darkness of complexion, whose jetty hue (which cannot be the effect of exposure), approaches that of an African: but they are invariably stamped with the Hindoo features; nor bear any traces of a distinct race. The bark (Spatha) of the Arcca often furnishes their whole clothing, which at best never exceeds a bit of cloth, sufficient for the purpose of decency. The hair allowed to grow wild, forms in time an immense mass, whose impurities cannot be imagined without shrinking. They are divided into several distinct classes, marked by some peculiarities,—

The Vaituwans (literally hunters) or Konakens, are ranked high and prized for their superior fidelity and tractability. They are expert boatmen, and often employed in the manufacture of salt. Their women, as an article of sale, are not much valued. The children of this class being the property of the father's master.

Vaituwans.

The Polayens constitute much the largest number of the prædial servants. They are split into three classes,—Vullava, Kunnaka, Moomy Polayen; each baser than the other. Husband and wife sometimes serve different persons; but more frequently the same. The females of this class are given in usufruct, scarcely ever in complete possession. The eldest male child belongs to the master of the father, the rest of the family remain with the mother while young, but being the property of her owner, revert to him, when of an age to be useful, and she follows in the event of her becoming a widow.

Polayens.

The Parriars also form a very considerable number of the slaves. The cast is divided into,—Perroom Parriar, North of Kodungaloor,—Moonay Parriar, South of that place. They are inferior to those of the other cast and reckoned so very vile, that their contact would entail the most alarming contamination. Their taste for carrion has doubtless caused this prejudice, which goes so far as to suppose, they inhale a fetid odour. The death of a cow or bullock is with the Parriars, the season of jubilee, never stopping to enquire its cause, they indulge the horror of the higher classes in the feast it affords. Unlike some of the other caste of Shurramukhuls, they do not connect themselves with their kindred: but as with the Vaituwans, the children are the property of the father's master. They are ingenious

Parriars.

in wicker-work, and are capable of great labour, but in point of value and character are greatly below the Polayens. They pretend to be great necromancers, and their masters respect their powers or fear their spells; nor shall we regret the credulity that puts at least one check on the caprice of their owners.

Vaiduns and Ooladurs.

The Vaiduns and Ooladurs are the least domesticated of the prædial slaves. They are employed in cutting timber, making fences, guarding crops, declining or being prohibited from giving any aid in the other rural labours. The former claims a superiority: but the existence and subsistence of both is indescribably miserable. They are not insensible to the vanity of ornaments,—the neck being hung round with shells: but they use no cloth,—a verdant fringe of leaves strung round their loins, being their only covering. A dark complexion, restless glance and exuberance of hair give them a wild appearance. But they are extremely gentle, and so timid, that on the least sound of approach, the shock-headed savage flies into the woods. Though reduced to a low state of debasement, they are yet superior to the

Nai-ades

Nai-ades, who in the opinion of all are at the very last step of vileness. This wretched race is only found in the Northern parts of Cochin. They are banished the villages and live on the low hills near the cultivated lands,—a bush or rock being their only shelter. The Nai-ades present a state of society not seen in any other part of India. Wild amidst civilized inhabitants, starving amongst cultivation, nearly naked, they wander about in search of a few roots; but depend more on charity; which the traveller is surprised at their clamorous impetuosity in soliciting. Ascending the little slopes that overlook the village or road, they vociferate their supplications. Whatever charity they receive is placed on the ground, near where they stand; but on observing their petitions are heard, they retire from the spot, that they may not defile, by their presence, those coming to their relief.

No. 2. *From Mr. H. Chamier, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, dated 6th June, 1837.*

Judicial Department.

I am directed by the Right Honorable the Governor in Council to transmit to you for the consideration and orders of the Right Honorable the Governor General of India in Council, the accompanying copy of a letter,\* from the Resident in Travancore and Cochin, relative to the system of slavery, lately discovered to exist among the Portuguese inhabitants of Anjengo, within the limits of the British Territories. As the Draft Act for prohibiting the importation of slaves by land, transmitted with my letter of the 17th November, 1835, has been referred for the consideration of the Law Commissioners, whose attention in the course of their labours must necessarily have been drawn to the subject generally,—it would seem advisable also to refer to them the papers now forwarded. And with the view of placing those gentlemen in possession of every information on this important subject, I am further directed to transmit the accompanying letters and their enclosures, received at different periods from the Court of Sudr Udalut and the Board of Revenue, relative to the subject of slavery generally, as it exists in the various provinces subject to the Presidency of Fort St. George.

\* Dated 4th May, 1837.

*From Colonel J. S. Fraser, Resident, to the Chief Secretary to Government, Fort St. George, dated 4th May, 1837.* No. 3.

Para. 1. I request you will be so good as to submit to Government the correspondence noted in the margin, and to acquaint me, whether it will not be considered right, since the territory of Anjengo belongs to the Honorable Company, that the system of slavery which appears to have immemorially prevailed there, should be now discontinued, and positively prohibited in future.

The Superintendent of Police at Anjengo to the Resident, dated 28th April, 1837.

The Resident to the Superintendent of Police, dated 29th ditto.

The Superintendent of Police to the Resident, dated 1st May.

2. In this case, it may be proper also, that the whole of the present slaves should be emancipated,—reimbursing their owners for the amount they originally paid for them.

*From Mr. T. A. Philipsz, Superintendent of Police, Anjengo, to Colonel J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, dated 28th April, 1837.* No. 4.

I beg leave to bring to your notice, that a practice infringing the Laws, appears to be in existence amongst the inhabitants of Anjengo, of buying human beings, and making them their slaves. And this kind of purchase, I find, is effected from the utmost poverty of the lowest class of individuals, who readily offer to sell their offspring for the sake of money.

The inhabitants treat their slaves inhumanly, and consider themselves to have a control over them and over their issues, even while they do not give them the means of living, and while such slaves maintain themselves, without depending upon their purchasers. It is my intention therefore, to issue a proclamation forbidding all the irregularities above described, provided it would meet with your approval.

*From Colonel J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, to the Superintendent of Police at Anjengo, dated 29th April, 1837.* No. 5.

1. In reply to your letter No. 3, under date the 28th instant, I request that you will, with the least practicable delay, give me further information in regard to the subject, on which you have addressed me; and with this view, I transmit a form which you will be so good as to fill up.

2. As it is of great importance, and that the case involves, as you yourself observe, an infringement of the laws, you are directed to state, why you have not earlier reported it to me, or whether you ever did so to any former Resident.



No. 6. *From Mr. T. A. Philipsz, Superintendent of Police, Anjengo, to Colonel J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, dated 1st May, 1837.*

Agreeably to the first para. of your letter, No. 715 of the 29th ultimo, I beg leave to forward herewith a list of the slaves at Anjengo.

With reference to the 2d para. of your above said letter, I beg leave to state, that,—with exception of the Reports I have made to you, and Mr. Casamajor, through my letters of the 13th September, 1835, and 31st March, 1836,—I have had no other subject to make a report about the purchase of slaves, as it appears, that the inhabitants of Anjengo have kept the matter rather secret, and it is only now, that I have come to understand of the case, by the few complaints received from certain slaves, as to the bad treatment they have suffered from their purchasers.

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Names of persons	Slaves purchased at Anjengo, or purchased elsewhere and brought into that place have or still possessed, to whom were they sold, and to have they been carried.	Remarks of the Superintendent of Police.
Mr. Francis Ro	whether brought him at Anjengo from Antope near Vellie and sold to Mr. gues.	
Ditto, .....	ed at Venniacoodoo, in the Sher-	
Ditto, .....	district.	
Ditto, .....		
Mr. Domingo	ed, and now ed at Poothoocoorchy ditto.	
Nephew Mr.		
Mrs. Magdalen	ceased, and ed at Vezoonellair.	
her son Mr.	nandes, .....	
Padre Salvador	ceased, and n	
his Cousin	Pudpanabapoorum.	
Fernandes, ..		
Diogo Francisco	Anjengo.	
Sagaum Hoomi	ditto.	
Mr. Philip West	Tootoor.	
Mr. Miguel Fe	and now possed at Badaicavoor, in the Sherrien-	
tion Padre L	District.	
pez, .....	aged by the said Pedro Anthony	
Ditto	taken, the person who had bought	
Ditto	Mother, a woman of Diayatoortee,	
Ditto	the Sherrienguil District.	
Ditto	dased at Cullatoor, in the Trivan-	
Ditto	in District.	
Ditto	dased at Poolloomdooritee, in the	
Ditto	rriengil District.	
Ditto	di	
Ditto	dased at Poolloomdooritee in ditto.	

	For what sum purchased.	In what description of labour employed.	If any Slaves purchased at Anjengo, or purchased elsewhere, and brought into that place, have ever been sold, to whom were they sold, and to what place have they been carried.	Remarks of the Superintendent of Police.
...	31 Fanams, .....	A maid of the house,	Purchased at Anjengo.	
...	25 Ditto, .....	Ditto, ...	" at Caroomgollum.	
...	32½ Ditto, .....	Ditto, ...	Mortgaged by her Parents at Anjengo.	
}	25 Ditto, .....	Cook Maid, .....	Purchased at Oodiagherry.	
}	Unknown, .....	Ditto, ...	{ Given with the portion of Dowry by her late Owner Pandaran Pires of Anjengo.	
}	30 Fanams, .....	Now Beggar, ...	{ This woman was first bought by Antonia of Trivandrum, who re-sold her at Anjengo, .....	This woman is allowed monthly 3 Fanams from the poor Fund at Anjengo.
...	150 Ditto, .....	Now a Beggar,...	Purchased at Anjengo, .....	This woman is allowed monthly 6 Fanams from the poor Fund.
...	80 Ditto, .....	{ Lives by her own Labour, }	Ditto.	
er,	125 Ditto, .....	{ Lives with her husband, ... }	Ditto.	
}	Unknown, .....	A maid of the house,	Purchased at Attunguerray.	
le,	Ditto, .....	Labourer, .....	Ditto at Corinadah.	
...	30 Fanams, .....	A maid of the house,	{ Mortgaged for the amount by her Mother at Anjengo.	
}	55 Ditto, .....	Ditto, ...	{ Bought at Anjengo first by Salvador, whose brother afterward sold her to the said Cochoo Shavareeah.	
..	40 Ditto, .....	Servant, .....	Purchased at Anjengo.	
..	35 Ditto, .....	A maid of the house,	Ditto.	
..	40 Ditto, .....	A Servant, .....	{ Ditto, but his father since paid Madavadean Davido, the forty Fanams and took the boy back, and sold him for a few Fanams more to a Catanar, who carried him to Cochin.	

(A True Copy,)

(Signed) J. S. FRASER, *Resident.*

(A True Copy,)

(Signed) H. CHAMIER, *Chief Secretary.*

## A P P E N D I X   X I I I .

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### C O O R G .

- No. 1. From the Junior Secretary to the Government of India, Legislative Department, to the Secretary to the Indian Law Commission, dated 27th July, 1840.
- No. 2. From Lieutenant-Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Officiating Secretary to the Government of India, Political Department, Fort William, dated 13th June, 1840.
- No. 3. From Captain C. F. Le Hardy, Superintendent of Coorg, to the Officiating Secretary to Commissioner for the affairs of Coorg, dated 15th May, 1840.
- No. 4. From Mr. H. M. Blair, Magistrate, Mangalore, to the Superintendent of Coorg, dated 10th March, 1840.
- No. 5. From Lieutenant-Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Superintendent of Coorg, dated 19th May, 1840.
- No. 6. From *idem* to the Superintendent of Coorg, Mercara, dated 20th May, 1840.
- No. 7. From Captain C. F. Le Hardy, Superintendent of Coorg, to the Officiating Secretary to the Commissioner for the affairs of Coorg, Bangalore, dated 6th June, 1840.
- No. 8. Extracts from Correspondence connected with the question of Slavery in Coorg.



( 35 )

## APPENDIX XIII.

*From Junior Secretary to the Government of India, Legislative Department, to the Secretary to the Indian Law Commission, dated 27th July, 1840.* No. 1.

I am directed by the Right Hon'ble the Governor General in Council to transmit to you for the information of the Law Commissioners, the accompanying copies of papers noted on the margin, relating to the restoration of certain slaves who fled from the District of Canara into Coorg.

Legislative Department.  
Letter from Commissioner for Coorg, No. 158, dated 13th June, 1840, with enclosures, to the Officiating Secretary Government of India, in the Political Department.

*From Lieutenant Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Officiating Secretary to the Government of India, Political Department, Fort William, dated 13th June, 1840.* No. 2.

I have the honor to transmit for submission to the Right Honorable the Governor General of India in Council, copy of a correspondence with the Superintendent of Coorg on the subject of an application made by the Principal Collector of Canara for the restoration of certain Dhers (slaves) who had fled from that District into Coorg; and to express my hope that I shall not be considered to have erred in refusing to interfere in the matter, pending a reference for the orders of His Lordship in Council.

Enclosure A.

2. In the Districts skirting the Western Ghauts where alone in the Mysore Territory praxial slavery prevails, and there to no great extent, it is generally understood that the authority of Government will in no case be exercised to compel the return of a runaway slave to his owner; therefore the power which a slave possesses of freeing himself whenever his servitude becomes insupportable, not only tends to ameliorate his present condition, but to discourage the investment of capital in so precarious a description of property.

3. Although Coorg is not yet prepared for the formal introduction of this practice into its internal management, it has nevertheless been invariably observed with regard to all slaves who have escaped across the frontier into Mysore,—excepting on one occasion under peculiar circumstances; and Capt. LeHardy would seem from his letter of the 6th instant, to anticipate no particular inconvenience from the continuance of that course.

4. The present being the first application which I have received for the restoration of slaves who had fled from the British possessions, I have deemed it my duty to submit the same to His Lordship in Council, and respectfully to solicit instructions for my guidance in the present case, as well as on the general question arising out of it,—as the orders of the Honorable the Court of Directors, under date the 12th of February, 1834, forbidding the surrender of revenue defaulters, may not have been intended to apply to the case of slaves, and I am not aware of there being any specific enactment or orders of Government on the subject.

Enclosure B. 5. The question of the manumission of the private slaves in Coorg having been under the consideration of the Government of India, and fully discussed in the correspondence between Mr. Secretary Macnaghten and the late Commissioner, extracts from which I beg to forward for the convenience of reference, I took advantage of the present application so far to revive the subject as to request Captain LeHardy's opinion of the probable consequences of liberating such slaves only as had fled from Coorg, paying, as proposed by Mr. Macnaghten, the full value of each slave to his proprietor. But that officer's reply, while it bears satisfactory testimony to the general good conduct of the public slaves set at liberty under the orders of Government, dated the 8th of February 1836, and to the general humane treatment of the slave population in Coorg, would seem to afford little encouragement even to this small attempt towards emancipation, which he thinks would be productive of alarm and discontent by encouraging desertion; while it may likewise be apprehended that the public recognition of a right on the part of the owner to compensation for the loss of his slave, might, thro' their mutual collusion, give rise to many unfounded claims for ransom; and that, even without such collusion, many of the slaves who might be redeemed under the proposed arrangement, would, after the example of their brethren in Coorg, grow tired of their freedom, and ultimately defeat the beneficent views of the Government, by returning voluntarily into bondage.

No. 3. *From Captain C. F. Le Hardy, Superintendent of Coorg, to the  
Officiating Secretary to the Commissioner for the affairs of Coorg,  
dated 15th May, 1840.*

I have the honor to forward copy of a letter addressed to me by the Principal Collector of Canara, requesting me, should no objection exist to the measure, to order a number of Dhers, who have taken refuge in Coorg, to be made over to a person named Nursing Rao, their owner; and to request that you will be so good as to favor me with the instructions of the Commissioner on the subject.

2. Partial assistance has occasionally been accorded to inhabitants of Canara in recovering slaves who have taken refuge in this country, and the like assistance has, on one or two occasions, been received by Coorgs who have proceeded in pursuit of their slaves to Canara, but I am now induced to solicit instructions on this point, in consequence of the very severe inconvenience which many Ryuts have suffered of late, owing to the greater part of their slaves having fled to Mysore,\* and if objections exist to assist them in the recovery of these, it would hardly be fair, I think, to compel them to part with such slaves as may abscond from neighbouring districts and voluntarily take service with them.

\* It is stated that upwards of five hundred slaves (including women and children) have fled from Kiggumand alone, since the beginning of this year.

*From Mr. H. M. Blair, Magistrate, Mangalore, to the Superintendent of Coorg, dated 10th March, 1840.* No. 4.

I have the honor to enclose copy of a report from the Peishcar of Mpinangady, from which you will observe that a number of Dthers belonging to one Nursing Rao, have taken refuge in your district. I request that should they be found there, and no objection exist to the measure, you will be so good as to order them to be made over to the agent of the claimant who accompanies this letter.



*From Lieutenant-Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Superintendent of Coorg, dated 19th May, 1840.* No. 5.

I have the honor to acknowledge the receipt of your letter of the 15th instant, with its accompaniment, being copy of one to your address from the Principal Collector of Canara, informing you that a number of slaves from that district had taken refuge in Coorg, and requesting if no objection should exist to the measure, that you order them to be made over to the agent of their owner.

2. In reply I would suggest that you inform the Principal Collector of Canara, that no impediment will be offered to the voluntary return of these slaves to their owner; but that you do not feel yourself at liberty to interpose your authority to enforce their compulsory restoration, without the sanction of the Government of India, to which the question will be referred.

*From Lieutenant-Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Superintendent of Coorg, Mercara, dated 20th May, 1840.* No. 6.

With reference, to your letter of the 15th and to your report on the Jumma-bundy under date the 14th August, 1837, in which you state,—that you have not heard a single instance of any of the Punna slaves emancipated in that year having misconducted themselves,—that you have every reason to believe that they are a remarkably quiet, well behaved, industrious people,—that a number of them have continued in the service of the Ryuts to whom they were formerly attached,—that three hundred and eighty-three families of them have during the past season established themselves as independent labourers,—and finally, that between fifty and sixty families cultivate on their own account small patches of land,—I have the honor to request you will have the goodness to make a further report on the circumstances of these individuals from the period referred to up to the present time,—as it would be exceedingly interesting in its bearing on the general question connected with the amelioration of slavery in India, to learn in what way they have



employed themselves; whether they have persevered in orderly and industrious habits; whether they have preferred to remain in Coorg rather than seek for a livelihood in the adjacent countries; and whether their condition on the whole is so prosperous as to occasion a feeling of discontent amongst the remaining slave population of Coorg.

I should also be obliged by your furnishing me with such information, as you may possess, with respect to the causes which have contributed to such an extensive migration of slaves from Coorg into Mysore as is reported in your letter of the 15th; whether there be any ground to believe that they have forsaken their masters chiefly to escape from oppressive and cruel treatment, or simply from their desire to obtain the privileges of freemen, and in what degree this desire has arisen from the emancipation of the public slaves; whether the rates of wages current in Mysore are such as to offer encouragement to desertion from Coorg; whether the condition of the slaves (apart from their personal freedom) is supposed to be improved by the change of country; and whether, if the freedom of fugitive slaves were purchased by Government from their owners, the former would return and establish themselves in Coorg, as so many of the emancipated slaves have done; or whether the Coorgs would, under present circumstances, be able to draw labourers from the adjoining countries for the cultivation of their lands.

I should also be glad if you would favor me with your opinion as to the probable consequence which would result from the Officers of Government affording no assistance to the owners in recovering such slaves as may fly from Coorg into Mysore and from Malabar and Canara into Coorg.

No. 7. *From Captain C. F. Le Hardy, Superintendent of Coorg, to the Officiating Secretary to the Commissioner for the affairs of Coorg, Bangalorc, dated 6th June, 1840.*

I have the honor to acknowledge the receipt of the Commissioner's letter of the 20th ultimo, requesting me to report further on the condition of the Punnah slaves who were emancipated in 1836; also requesting information as to the causes which have contributed to the extensive migration of slaves into Mysore, brought to notice in my letter of the 15th ultimo, and on different other points connected with the general question of slavery in Coorg.

2. In reply I have the honor to state that I have not, up to the present period, heard a single instance of any of the Punnah slaves having misconducted themselves; but on the contrary, all accounts which I have received of their pursuits and habits, have only tended to confirm the favorable opinion which is expressed of them in my letter of the 14th August, 1837. A few of those, who had undertaken the cultivation of lands on their own account, have thrown them up, but there are still between thirty and forty families so engaged, about a fifth of the whole have established themselves as independent labourers; and the remainder have either returned to their former masters, or have attached themselves to other ryots as domestic servants. No one that I have questioned can speak positively as

to any having left the country; but it is supposed that a few of the Yerrawnro caste, who had come from Wynaad, have returned thither, and have entered the service of ryuts to whom their relatives are attached. The number of these must, however, be very small.

3. Such of the emancipated slaves as have taken lands for cultivation, have congregated in small villages in the neighbourhood of the Punnahs to which they formerly belonged. The size of their farms vary from fifty to about two hundred butties of land, assessed on Sagoo tenure at from five to twenty rupees. They are better clothed than they were; their dwellings are for the most part substantially built; and their condition appears, on the whole, decidedly improved.

4. Those who have re-entered the service of their former masters, or who have attached themselves to ryuts as domestic servants, are maintained very nearly, if not precisely, on the same footing as they formerly were. They live with the slaves of the establishments to which they belong, are allowed the same rations, and are required to work the same number of hours, but instead of receiving the clothing, to which slaves are entitled once in six months, some have stipulated for a payment in money, of from two to four rupees a year. I am told, however, that the greater number receive the same allowances, and are otherwise treated exactly as if they continued slaves; indeed, that many of them have destroyed the certificates of freedom, which were given them, and have bound themselves to continue for life in the service of their masters, on condition of being maintained as slaves in their old age, or when unable to work from illness; and that others have done the same in order to procure the means of getting married, or to obtain the consent of masters to their marrying female slaves of their establishments. The condition of this class cannot therefore be regarded as being in any way improved, nor can I say that I perceive any difference in the circumstances of those, who have established themselves as independent labourers; the rates of hire differing so very little from what they formerly received, that the freedom which they now enjoy may be regarded as almost the only advantage which they have derived from their emancipation.

5. The present condition of the Punnah slaves, is not, therefore, on the whole, such as to occasion any feelings of discontent amongst the remaining slave population; nor have I ever heard that the emancipation had had that effect, although previous to its taking place, this was the principal objection which was urged against the measure. On the contrary many persons, whom I have since questioned on the subject, have assured me that, with a very few exceptions, the liberation of the Punnah slaves had been regarded by the rest with perfect indifference, and that it had not, to their knowledge produced the slightest alteration in the conduct of any.

6. On making more particular enquiries regarding the desertion of the slaves from Kiggutnaad, brought to notice in my letter of the 15th ultimo, I find that I was misinformed as to the number who have proceeded to Mysore. Upwards of five hundred, including women and children, are still stated to have left Kiggutnaad since the beginning of the year; but it now appears that nearly the whole of these have proceeded to Wynaad,—the number who have gone to Mysore not exceeding fifty or sixty at the utmost. Had I been aware of this fact, when I despatched my letter of the 15th ultimo, I should not have considered it necessary to advert to the loss sustained by those, whose slaves have absconded, as they have no cause of complaint,—there being an old understanding between the Coorgs and the ryuts of Wynaad,

according to which, slaves absconding from either districts, are not claimable by the masters whom they have left after having crossed the frontier. For some years past, this custom has operated much to the advantage of the Coorgs, the desertions from Kiggutnaad being very few, whilst the number of slaves who have come from Wynaad has sometimes amounted to two or three hundred in the course of a season. This year, however, owing, it is said, to the Wynaad proprietors, having increased the allowance to their slaves, and put them, in respect to food and clothing on an equality with the slaves of Coorg, several of those who had come from Wynaad have returned to their former masters, and have, moreover, induced a number of the slaves of this country, with whom they were associated, to accompany them. This is one reason offered for the large migration which has taken place. Another reason given is that, these slaves are of unsettled migratory habits, and remain seldom more than four or five years in the same place, leaving their masters on the slightest grounds, and very frequently without any apparent cause at all. Moreover, it is said that the labour in Wynaad is much lighter than that which is exacted in Coorg, and that the slaves when put upon an equality in point of food and clothing would of course prefer the former district.

7. Desertions in this manner from one district to the other, appear to have been of constant occurrence for many years past. Most of the slaves on crossing into Coorg are claimed by ryuts to whom they were formerly attached; and the same is, I believe, the case in regard to those who abscond from this country into Wynaad; so that many of the slaves, on either side of the frontier, are considered as having masters in both districts; and I am told that they have changed so often from one to the other, that it would now be almost impossible to say to which they properly belong.

8. The slaves who have proceeded to Mysore, are generally supposed to have left their masters in consequence of inducements held out to them, by inhabitants of the adjacent talooks, to enter their service; as well as from a desire to obtain the privileges of freemen. I have been unable to ascertain, with any degree of certainty, whether the wages current in the villages bordering in Coorg are such as to offer any particular encouragement to the desertion of slaves; but from all I can collect, I rather think they are not, and that the condition of fugitive slaves, (apart from their own personal freedom) is not in most cases improved by the change of country; as many after an absence of some months, occasionally of some years, return to Coorg of their own accord. The only satisfactory cause I can find, therefore, for the migration of those, who have proceeded thither, is that which is assigned by the proprietors themselves, or more probably a desire to settle in the neighbourhood of their own caste people residing in the adjoining talooks of Mysore.

9. I hardly think that they can have been driven by cruelty to leave the country. Instances of ill usage must of course occasionally occur; but I have every reason to believe that such are very rare. Judging from my own observation, as well as from all I have heard on the subject, I should say that the slaves of Coorg are generally treated with much kindness, and that the greatest attention is paid to their wants and comfort. Indeed,—when it is considered that they have at all times the means of escaping from ill treatment, and that they are in the habit of absconding on receiving the slightest cause of annoyance,—it may readily be supposed that the conduct of the master towards his slave, cannot differ much from what it would be, were the latter a free domestic servant.

10. A number of the ryuts of Kiggutnaad and Yedaynacknaad living near the frontier of Mysore, possess slaves whose families originally came from Periapatam, and other Talooks adjoining Coorg. Many of these slaves would most likely take the first opportunity of leaving their masters, with the view of settling amongst their relatives or caste people, if they were quite sure of not being sent back. But excepting the loss which the proprietors of this class might sustain, I do not believe that any serious inconvenience would result from the Officers of Government affording no assistance to the owners in recovering such slaves as may fly from Coorg into Mysore; nor am I aware of any that is likely to arise from the same course being pursued in regard to such as may fly from Malabar or Canara into Coorg. The slaves of all other castes in Coorg, on leaving their masters, either proceed to other parts of this country, or to Wynaad; but never, for any length of time, to the open country; to which their aversion is said to be so great that no temptation would induce them to settle there. It may be concluded therefore, when slaves of the latter classes desert to Mysore that nothing but ill-treatment has driven them to do so; and the same may be inferred in the case of such as desert from Malabar or Canara into Coorg; as the slaves, (as well as all other inhabitants of the Coast) entertain the greatest dread of the climate above the ghauts, and are very unlikely to select Coorg as a place of abode, unless it be to escape from the tyranny of a master.

11. In either cases therefore, it appears highly advisable that the owners should be left to their own resources in recovering their fugitive slaves, after they have left the district to which they belong. Perhaps it would be as well that no exceptions were made to this rule.—although the case of those castes of slaves who have connexions residing in the adjoining talooks of Mysore, is somewhat different. Their desertion in most instances, may be supposed to proceed from a desire to settle in the neighbourhood of their own caste people; and if there be no check to their leaving their masters, the latter, however kind and considerate may be their conduct, will always be liable to suffer serious losses.

12. The number of these slaves probably amounts to two or three hundred families, or supposing all whose families, originally came from Mysore still to have ties there, the number may possibly amount to two or three hundred more. They belong to the Bulgi Hollieroo, Buddugen, Yerrwauroo, and Jain Carrooburoo castes. There were between three and four hundred of them attached to the Punnahs, and they form the only portion of these slaves who have established themselves independently; they are indeed the only castes amongst the slaves of Coorg, who appear to attach any value to the enjoyment of personal freedom, as I cannot find that any of the emancipated slaves belonging to these castes, have left the country, although many must still have connexions in Mysore, I am led to believe that if Government were to purchase the freedom of such as may take refuge in Mysore, many of those who have absconded during the last three or four years, would return to Coorg: although it is probable that rather than re-enter the service of their former masters, they would settle in the country as independent labourers; I fear, however, that a measure of the kind, would give rise to much alarm, and I rather think that the majority of slave owners, if consulted, would prefer receiving no remuneration than risk the loss of more slaves, by the encouragement which the system of purchasing the freedom of fugitive ones, would offer to further desertions.

13. The cultivation of wet lands in Coorg begins just as the rains set in; and the most important operation, the transplanting of the paddy, which occupies in

most farms a month or six weeks, takes place during the very heaviest part of the Monsoon ; the slaves or labourers employed by the ryuts, are consequently obliged to undergo a degree of exposure, such as none but persons who have long been inured to the climate are willing to endure, or indeed are capable of bearing. From this cause as well as from the aversion which the natives of the adjoining districts have to the climate of Coorg, even in the most favorable seasons of the year, it will always be difficult to procure labourers, and were any large number of slaves to leave the country, great distress would no doubt, be the result ; as the owners would be under the necessity of abandoning most of the lands which were cultivated by them.

14. But as I have already stated, the migration of any large number of slaves from Coorg, is a contingency which I see no cause to apprehend, from the officers of Government refusing to recognize the rights of owners to such slaves as abscond beyond the frontier, nor indeed do I believe that any serious inconvenience would result to the owners, were the district authorities even prohibited from taking any active part in restoring runaway slaves who may remain in Coorg, (the masters being left to depend entirely on their own resources for their recovery) but this latter, is a course which it would hardly be expedient to adopt. At present application for assistance of this nature are of extremely rare occurrence, and any change in what has hitherto been customary in this respect, would no doubt be regarded by many of the most respectable inhabitants as an encouragement to insubordination amongst their slaves and as leading to innovations, which, in their opinion, could not fail in the end, to cause the utter ruin of these families. In short, I know of no change which would be likely to give rise to so much alarm and bad feeling as the adoption of any measure tending to weaken the right which masters now possess to the services of their slaves ; or indeed of any important alteration in what has hitherto been the custom of the country, in regard to this description of property.

## B

### No. 8. *Extracts from Correspondence connected with the question of Slavery in Coorg.*

Colonel Fraser's letter to  
Mr. Macnaghten, dated the  
3d May, 1834.

Para. 10. There are about 1,500 slaves attached to the Estates of the late Rajah, described in my letter of the 1st instant. These might have been emancipated had there been no others in the country, but there are several thousands more, as I find that slavery prevails here generally. I have therefore deemed it inexpedient to attempt any change in the existing system, and have merely directed that correct and detailed Returns of the Slaves be made to me with a view of immediately liberating the Coorgs, or other inhabitants of the country, who have been condemned of late years to perpetual slavery by the capricious tyranny of the Ex-Rajah, but of allowing the original bondsmen who have been attached to the soil from time immemorial to remain there as at present until a more intimate acquaintance with the subject in general shall enable me to report it to Government.

*Memorandum respecting the condition of the Slaves in Coorg, transmitted with Colonel Fraser's letter to Mr. Secretary Macnaghten, dated 14th July, 1834.*

Slaves in the Coorg country are termed Jummed Aloo, a compound term signifying labourers attached to Jumma lands, and their number is estimated at six thousand and eighty-nine. It seems that slavery has existed in this country from time immemorial. It is supposed that half of the agricultural labourers here are in a state of bondage, the nature of which does not seem to differ in any material degree from that which exists in other parts of Hindoostan.

There are two descriptions of slaves in the Coorg country, one called *Boomes Jummed Aloo*, signifying those who are attached to the soil, and liable to be transferred from one proprietor to another, but not removeable from the land to which they belong; and the other called *Vuccaloo Jummed Aloo*, meaning those who are the personal slaves of cultivators, and who may be either sold or mortgaged by them; they always remain attached to their masters, and move with them wherever they go; they are, indeed, the moveable property of the cultivators, from whom they never separate under any circumstances.

The slaves here are of the castes mentioned in the margin. It seems to be the opinion of the most intelligent persons here that their bondage must either have been originally derived from a voluntary submission on their part to become the slaves of cultivators, in order to obtain a livelihood; or that the cultivators purchased free persons for the purpose of assisting them in their cultivation at the cheapest rate. The Rajahs of Coorg had always a considerable number of slaves belonging to them, who were employed in cultivating the Punniums or Royal farms. When land was given to a Ryut for the purpose of cultivation, one or two slaves were occasionally made over to him from those belonging to the Circar. The Ex-Rajah had about one thousand, seven hundred and fifty-seven slaves. They were not only employed in the cultivation of the Royal lands, but also in the performance of other mean labour. The Rajah used to employ them in the conveyance of his arms whenever he went on hunting excursions. The Ex-Rajah called not only upon the slaves attached to the Royal lands, but also upon those, the property of cultivators, to afford military aid in the late war, their masters having been directed to supply them with arms.

The proprietors of the Vuccaloo Jummed Aloo in Coorg, have the power of selling them, but not to a person who will carry them out of the country, unless the slaves themselves consent. The rights of slaves consist in receiving subsistence and protection for themselves and their families, from their masters, who are bound to observe the custom of the country with respect to the quantity of food and clothing given to them. Three seers of rice for a male slave, two seers for a female, and one and half to a boy or girl, are given by their masters, independently of salt and curry stuff which are supplied by them, sometimes monthly, and at other times daily. The slaves are likewise entitled to a load of grain, once a year, at the time when the crops are reaped. This quantity is called "Horay," which varies in different Naada. The slaves reside in houses provided for them by their masters in the small village, and a piece of land is appropriated to their use, in which they usually grow vegetables or tobacco. Besides the subsistence given to the slaves, and the allowance above-mentioned at the time of harvest, they are supplied by their masters

Betta Kooraharoo.  
Janoo Kooraharoo.  
Pannayara.  
Budaga Taraba.  
Punjay Taraba.  
Pulay.  
Koodrah.  
Adeah.  
Kembutta Holeyaroo.  
Budaya Holeyaroo.  
Rookka Holeyaroo.  
Kapeul.  
Mudegaroo.  
Maduroo.  
Muree Holayur.  
Murtha Holayur.

with clothing twice a year, first, when the seed is sown, and secondly, when the crops are reaped. It appears that some Ryuts in Coorg provide their slaves with subsistence at those times only when they work for them; but that at others they are obliged to seek a livelihood elsewhere, being bound however to return to their master, at the commencement of the season of cultivation. If the master become either from poverty or any other cause unable to protect his slave, he obtains an employment as labourer under any other person, and earns his livelihood; but when his master is again in circumstances to support his slave, he returns and attends as before to the business of his master.

In regard to the treatment of slaves by their masters, it is said that the cultivators in Coorg, actuated by self-interest, if not a better motive, pay much attention to their comfort. Aware as they are that any act of severity on their part will induce their slaves to abscond, a circumstance which would subject them to much trouble and inconvenience, they protect and treat them with kindness, as forming a part of their family. The proprietors in Coorg possess no power to inflict severe punishment upon their slaves, but they have authority to chastise them moderately for any faults they may commit. In the time of the Rajahs, no instances appear to have occurred of slaves having complained of severity or ill-usage on the part of their masters, a circumstance which indicates that they have experienced good treatment from them. The wealth of a cultivator is generally estimated by the number of his slaves, as, in proportion to the number he has lands under cultivation.

It does not appear that any attempt to emancipate slaves could be accomplished without a violation of the rights of private property, and it would unavoidably produce much serious inconvenience, and cause a considerable quantity of land to be abandoned, as the proprietors would be unable to incur the expence of employing free labourers. The slaves who are now in Coorg have been slaves from their birth, and are the descendants of slaves. Marriage contracts among them are sometimes made by the parents of the parties, with, and at other times without the interference of their masters. The marriage tie is dissolved by the parties at their pleasure, each being at liberty to form a new connection. The children, it is said, always remain attached to their fathers according to the custom of the country.

During the late war, half of the number of slaves attached to the Royal lands escaped from the country, and the other half, amounting to about eight hundred and sixty have been, or will be transferred to those Ryuts to whom the lands in question have now been rented, or are in the course of being so.

Mr. Macnaghten's letter to Colonel Fraser, dated the 25th July, 1834.

Para. 12. The account furnished by you of the state of slavery in Coorg is circumstantial but deficient in one important particular. You do not state what is the average selling price of a slave, and as this is a most material point to be considered in all endeavours for ameliorating the condition of this class, you are requested to supply me with any information you may be able to procure with regard to it.

Colonel Fraser's letter to Mr. Macnaghten, dated the 15th August, 1834.

Para. 52. There is scarcely any point on which I have found it more difficult to obtain information than that which regards the state of slavery in Coorg, and it is this circumstance which has delayed for some days the transmission of the present dispatch. I have thought that, I perceived a reluctance to speak on this subject since I first came into the district, and this may perhaps be attributed in

some measure to an apprehension on the part of the people that the inquiry was a preliminary to the emancipation or other change in the condition of the slaves.

53. With regard to the selling price of the slaves, of which His Lordship in Council desires to be informed, the following Memorandum conveys all that I am able to state on this subject; and the persons from whom I have received it having somewhat differed in their accounts, I am not prepared to vouch for its perfect accuracy, though I am disposed to think that it is not far removed from the truth.

54. There are about sixteen tribes of slaves in Coorg, which are classed under their general denominations, viz. Holeyaroo, Yewaroo, and Paleroo. The average price of slaves of the above three denominations, is as follows :

	Males. Rs.	Females. Rs.
Holeyaroo, comprizing Kimbutty Holeyer, .....	18	18
Madegaroo, Madaroo, Mare, Holeyer, .....		
Yewaroo, comprizing Betta Koolearoo, .....	10	10
Janoo Koolearoo, Panay Yewaroo, Badagay, .....		
Yewaroo, Punjay Yerawaroo, .....		
Paleroo, comprizing Rookka Holeyaroo, .....	12	12
Palaroo, Adeah, Murtha, Holeyur, Rupla, .....		
Total...	40	40
Average...	13½	13½

55. It is said that, of the above-mentioned tribes, the Kimbutty, Holayur, and Madaroo are natives of Coorg, and that the rest are originally purchased in Canara and brought from thence into Coorg. The Holeyaroo are more valuable than the Yerawaroo, because they are more faithful to their masters, and work harder. The Yerawaroo are prone to desertion, and to the commission of theft and other offences, from which cause they are considered of inferior value. The laws of kindred among these classes, excepting the Mare Holeyaroo are the same as those of the slaves in other parts of India, where the offspring is considered as belonging to the parents; but the laws of the Mare Holeyer are similar to those of Nairs, among whom the inheritance goes to the sister's son. The female slaves of the Paleroo caste do not remain in bondage after the death of their husbands, as they are then free and return to their father's house. It is said that the female children of these slaves are not considered the property of the masters, unless they are purchased; but that they are sent by their parents to the house of their maternal grandmother and there brought up.

Para. 9. You are aware that the question of slavery in India has deeply engaged the attention of the British Legislature. The subject is one of considerable delicacy, and the Governor General in Council thinks it exceedingly fortunate that an officer of your approved judgment and discretion should at this juncture reside in a district where slavery is so prevalent.

Mr. Macnaghten's letter to Col. Fraser, dated the 29th August, 1834.

10. From the information, which you have been able to collect, it would appear that the average price of a slave in Coorg is between thirteen and fourteen rupees. From this, it is evident, that the British Government might effect the emancipation of the entire district at a pecuniary sacrifice too trifling to be mentioned in comparison with the object of conferring personal freedom on so many hundreds of human beings.



11. But the Governor General in Council is fully aware that in the execution of this beneficent scheme too much caution cannot be exercised. It is desirable that the best possible information should be obtained, both as to the feeling with which the scheme would be received by the masters, and the effect which its execution would have upon the condition of the emancipated slave. To the former, it might be palatable by the temptation of a large pecuniary payment; and to the latter, it could hardly fail to be advantageous by its securing to him his personal freedom and the fruits of his own industry. It is hardly possible indeed to imagine a state of society in which the acquisition of personal freedom would not prove an incalculable blessing to those on whom it was conferred,—though the degree in which the benefit would in the first instance be felt may doubtless be affected by peculiar circumstances. On the other hand, it is easy to suppose that, they who have been accustomed immemorially to dominate over certain classes of their fellow creatures might be unwilling to part with this privilege for any reasonable compensation. The degree of unwillingness which might be felt would be a material point for consideration.

12. The Governor General in Council would not consider himself justified, even for the attainment of so benevolent an object, in risking the tranquillity of any portion of the country. If therefore, there was ground to believe that serious disaffection to our rule would be the consequence of proposing any plan of emancipation, —His Lordship in Council would be inclined to recommend that the attempt at its introduction should be deferred, until a more general diffusion of knowledge among the people should hold out a better prospect of success.

13. There cannot, however, the Governor General in Council conceive, be the slightest objection to entrusting an officer, of your well known prudence and intimate knowledge of the native character, with the duty of endeavouring to ascertain the feeling of the community of Coorg on this important subject. It is not intended, that you should institute any formal enquiries with regard to it; but in the intercourse which you continually have with the more respectable and intelligent persons of the country, opportunities will doubtless present themselves of enabling you to ascertain the feeling with which a proposition would be received having for its object the emancipation of all the slaves in Coorg, the full value of each being paid to their respective proprietors.

14. The Governor General in Council is well aware that prædial slavery is not peculiar to Coorg, and that it prevails extensively in other parts of India, especially on the Western Coast; but he is unwilling to communicate his sentiments on a question of so much delicacy to any officer in whom he has not entire confidence. Should your report satisfy His Lordship in Council, that there is not that decided repugnance to the proposition which might be anticipated, similar enquiries may subsequently be instituted in other quarters. But no steps can be taken in the country for carrying the scheme of emancipation, even partially into effect, until a reference shall have been made to the home authorities.

Mr. Macnaghten's letter  
to Col. Fraser, dated the  
9th September, 1834.

Para. 9. After the words "corporal punishment" in the 92nd Rule may be inserted the words "by the officers of Government." This will probably remove the scruples adverted to in the 25th paragraph of your letter now acknowledged; though His Lordship in Council is of opinion that any direct recognition of the power of individuals to inflict corporal chastisement on their slaves or others, however moderate, might be attended with very prejudicial consequences.

Para. 4. In paragraphs 9 to 15 of your letter to me, under date the 29th August, 1834, you desired my opinion in regard to the state of the slaves in Coorg, and the practicability of emancipating them. My views were then opposed to this proceeding, as unnecessary and inexpedient; and the Dewan Ponnabiah in a private and confidential memorandum furnished to me at the same time, participated in the sentiments I entertained respecting the impolicy of the measure, and the mischief, by which it would be followed.

Colonel Fraser's letter to Mr. Macnaghten, dated the 31st August, 1834.

5. I have however abstained from addressing any official report to you on the subject, until time and a further acquaintance with the condition of the people, generally in Coorg, should enable me to do so with less chance of error.

6. The opinions I then entertained on this point are now more fully confirmed. I think that the emancipation of slaves ought not to be contemplated in the present condition of Coorg, under any circumstance, even of proposed pecuniary compensation to their owners; and that such a measure, if practicable at all, would be fraught with much evil to the slaves themselves, as well as prove a source of great inconvenience and deep discontent to their proprietors.

7. I have frequently conversed upon this subject with Captain Le Hardy: and the Honorable the Governor General will find it discussed in paragraphs 138 to 149 of that officer's report.

8. I would not recommend the adoption of any further proceeding, at present, in this respect than that which is suggested in paragraphs 141 to 149; and this only as an experiment, of which the progress and consequences should be carefully observed, and hereafter reported upon.

9. Nothing can be more satisfactory than the state of Coorg. Its inhabitants are a simple, hardy, and industrious race, and I entertain the fullest conviction that we may continue to rely upon their allegiance and good will towards us, as long as we treat them with justice and kindness, and that we abstain from any speculative experiments on the institutions and administration of the country as at present established.

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Para. 138. The state of slavery is a subject upon which I have received your instructions to report; and I have accordingly omitted no opportunity, that has been offered me, in conversation with the inhabitants, of putting questions, in order to obtain information regarding the condition and character of these classes, and the treatment which they experience from their masters; as well as to ascertain the feelings and opinion of the ryots in respect to their emancipation.

Capt. Le Hardy's Report, dated the 30th July, 1835.

139. I have heard only one sentiment expressed, and it accords in every particular with the opinion offered by the Dewan Ponnabiah, as stated in the memorandum forwarded to me with your letter of the 18th November last. All my informants concur in predicting that, in the event of their being suddenly emancipated, their habits of idleness and improvidence are such, that they are more likely to retire to the jungles, and seek a subsistence by plunder, than to have recourse to manual labour, as a means of livelihood. This may admit of a doubt; but, an unanswerable objection offered to their sudden manumission, is the utter impossibility of finding substitutes for performing the agricultural operations of this country,—owing to the absence of superfluous labourers, and the difficulty and expence of procuring any from Mysore or Malabar, should the slaves, on obtaining their freedom, proceed elsewhere, or refuse to work. Indeed the strongest possible objection appears at present to exist on the part of the people to any measure amounting to an abrogation of slavery.

140. I doubt, therefore, the practicability of accomplishing the purchase of the whole, or of any considerable number of the slave population with the consent of the proprietors; but, I think, at the same time, that there are many individuals, who, although unwilling to part with their slaves, might be induced, by the offer of favorable terms, to allow them some of the most essential privileges of freedom; and also to give up all claims to their progeny.

141. My attention has, accordingly, been divided to the consideration of some measure by which emancipation might be gradually accomplished, without alarming the prejudices of the people, and a most favorable opportunity of discussing this delicate question has been afforded me from the necessity of devising some immediate arrangement for the disposal of the slaves attached to the Punnah.

142. I found the Dewana at first obstinately opposed to any plan, which had for its object, the emancipation of these slaves, on the principle that a measure tending to improve the condition of a portion, would occasion a feeling of discontent amongst the whole of the remaining slave population of Coorg. After reconsideration, however, and on my pointing out to them the improbability of Government sanctioning the sale of the Punnah slaves, they have furnished me with a memorandum, which provides, what appears to me a simple and perfectly feasible means,—of meliorating the condition of the present generation,—and at the same time of emancipating their progeny without the risk of danger or inconvenience.

143. They propose that the Punnah slaves should continue to be considered the property of Government (with the view of preventing any feeling of discontent which their sudden emancipation would occasion amongst the remainder of the slave population); but that instead of continuing to be employed on their present footing, they be entrusted to the care of respectable ryots, who shall be required to maintain them on the same terms as ordinary labourers; paying them the same rate of hire, demanding their attendance only during working hours, and especially, allowing them the entire management and control of their family affairs, and the settlement of their children's marriages.

144. The rising generation are also to be considered the property of Government; but to be in reality perfectly free; except, first, in their being placed under the surveillance of the Potails of the villages which they may select as their place of residence; and secondly, in their being obliged to apply for the permission of the Circar, when desirous of removing from one part of the country to the other. In other respects they are, to be on the same footing as all other ryots, to be allowed to cultivate land on their own account, or to work as labourers for whomsoever they choose.

145. Thus the condition of the present Punnah slaves will be very materially improved; while the rising generation are to be allowed almost perfect freedom: unless their conduct is such as to render it necessary to place them under guardianship, in the same manner as their fathers were.

146. This appears as much as can be wished for as a first step towards their entire emancipation; and I perceive no serious impediments to the plan being carried into effect; although, it is possible that there may, at first, be some difficulty in placing the slaves on their new footing and in securing to their posterity, the privilege of free men. These difficulties may, however, I think, be overcome by a little attention to their comforts on the part of the district officers; and by the assistance of a trifling advance from Government, on their first establishing themselves as free labourers, under the surveillance of the Potails of villages.

147. The apprehension, at first expressed, that the *sudden* emancipation of the Punnah slaves, would occasion a feeling of discontent among the whole of the slave population of Coorg, may not be unfounded, but I conceive it exceedingly improbable that any inconvenience or danger will result from the plan now proposed, viz. their being allowed to assume the privileges of free men by *degrees*. Indeed, I feel satisfied that the Dewans, who are themselves extensive proprietors of slaves, would never have recommended the measure were there any, the slightest, grounds for entertaining any doubt on the subject.

148. I have, therefore, no hesitation in recommending the adoption of the plan which they have proposed, and I feel peculiar satisfaction in submitting their memorandum\* on the subject for consideration, as it appears to me to open a safe and easy road for carrying into effect a more extensive measure of emancipation hereafter, should the present plan be found, in practice, liable to no serious objections.

\* Vide No. 25.

149. The Dewans also recommend that the slaves, of which individuals were deprived by the Ex-Rajah, be returned to their former owners; but I see no reason why these should be made an exception to the rest, should the foregoing plan meet with approval.

Para. 8. The 11th and 12th propositions require distinct notice. The Governor General in Council is not aware of any objection to the rule of assessment proposed for the Punnah lands, supposing that question to be altogether distinct from the plan suggested for the disposal of the slaves attached to those lands.

Mr. Macnaghten's letter to Col. Fraser, dated the 12th October, 1835.

9. But with regard to this last suggestion, I am desired to observe that the Governor General in Council cannot bring himself to concur in it, notwithstanding the very great confidence he reposes in the general accuracy of your views and opinions. The Legislature has already laid down the humane principle that the extinction of slavery in India is to be effected as soon as it may be practicable and safe to do so. No opportunity would appear to be more favorable than the present for making an effort to promote this benevolent object. The slaves are the unquestioned property of Government, with whom it undoubtedly rests to dispose of them as it may seem proper, and the number is not so large as to create any apprehension of extensive disturbances, should they abuse the freedom which may be conceded to them.

10. The Governor General in Council however sees no reason to apprehend that such would be the case; judging from the experience of other countries and other times, there is every reason to suppose that the emancipated slaves of Coorg would willingly work to obtain their livelihood, and that those for whose benefit they have hitherto been tasked would willingly employ them as hired labourers. The objection alluded to by Lieut. Le Hardy in the 142d para. of this report cannot be allowed any weight in the consideration of this question. That the British Government should be prevented from performing an act of justice and humanity "on the principle that a measure tending to improve the condition of a portion, would occasion a feeling of discontent amongst the whole of the remaining slave population of Coorg," is a doctrine which with every disposition to consult the wishes and even to respect the prejudices of our newly acquired subjects, the Governor General in Council cannot for a moment entertain.

11. You will accordingly understand that it is the settled determination of Government to emancipate those slaves, whose persons as belonging to the State,

it has the undoubted right to set at liberty, and you are requested to state your opinion, as to the best course of proceeding for the purpose of securing an employment and livelihood for the individuals so liberated whether by locating them on the Punnahs on the footing of ordinary ryots or by any other means.

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*Here follows in the Manuscript the Correspondence printed in Slavery  
in India Papers, 1838.*

*Page 72, No. 125, Lieutenant-Colonel J. S. Fraser to Mr. W. H. Macnaghten, 1836, January 18th.*

*Idem, No. 126, Captain C. F. Le Hardy to Lieutenant-Colonel J. S. Fraser, 1835, November 23rd.*

*Page 74, No. 127, Mr. Secretary W. H. Macnaghten to Lieutenant-Colonel M. Cubbon, 1836, February 8th.*

*— 79, No. 85, Captain Le Hardy to the Commissioner of Coorg, 1836, April 26th.*

*— 78, No. 83, Lieutenant-Colonel M. Cubbon to Mr. Secretary W. H. Macnaghten, 1836, June 3rd.*

*— 79, No. 86, Mr. Secretary W. H. Macnaghten to Lieutenant-Colonel M. Cubbon, 1836, June 27th.*

Captain Le Hardy's letter to Colonel Cubbon, dated the 14th August, 1837.

I have much pleasure in stating that I have not heard a single instance of any of the individuals who were emancipated from slavery, at the beginning of last year, having misconducted themselves, as it was at first apprehended they would do. Indeed, as far as I can judge, from what has fallen under my own observation, I have every reason to believe that they are a remarkably quiet, well behaved, industrious people; a number have continued in the service of the Rajahs to whom they were formerly attached; but it will be observed under the head of "House Tax" in the accompanying memorandum, that three hundred and eighty-three families of them have, during the past season, established themselves as independant labourers. Between fifty and sixty families cultivate on their own account, small patches of land.

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## APPENDIX XIV.

### BRIG MOYDEEN BUX.

- No. 1. Letter from Secretary Indian Law Commission to the Chief Secretary to the Government of Fort Saint George, Madras, dated 11th March, 1840.
  - No. 2. Reply from the Secretary to Government of Fort Saint George to Secretary to the Indian Law Commission, dated Neilgherries, Ootacamund, 2d April, 1840.
  - No. 3. From Mr. Advocate General George Norton to the Secretary to Government, in the Marine Department, Fort Saint George, dated 5th November, 1839.
  - No. 4. From Captain Christopher Biden, Beach Magistrate, to the Secretary to Government, dated Madras, 4th November, 1839.
  - No. 5. From idem to Mr. A. Rowlandson, dated idem.
  - No. 6. From idem to the Secretary to Government, Madras, dated 4th December, 1839.
  - No. 7. From Mr. R. A. Bannerman, Magistrate, Purlah Kemedey, Ganjam, to the Master Attendant and Beach Magistrate, Madras, dated 27th November, 1839.
  - No. 8. From Mr. T. Conway, Head Assistant Magistrate, Calingapatam, to Mr. R. A. Bannerman, Magistrate of Ganjam, dated 21st November, 1839.
  - No. 9. From Captain Christopher Biden, Beach Magistrate, to the Secretary to Government of Madras, dated 3rd January, 1840.
  - No. 10. From Mr. W. U. Arbuthnot, Magistrate, Vizagapatam, to Captain C. Biden, Beach Magistrate of Madras, dated 24th December, 1839.
  - No. 11. From Sir H. C. Montgomery, Acting Principal Collector, Tanjore, to the Collector of Vizagapatam, dated 24th December, 1839.
  - No. 12. Extract from the Proceedings of the Foujdaree Udalut, under date 17th September, 1839.
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## APPENDIX XIV.

*From Secretary Indian Law Commission to the Chief Secretary to Government of Fort St. George, Madras, dated 11th March, 1840.*

The attention of the Law Commission has been attracted to the recent trial at Madras, under the Statute 5, G. IV. C. 113, of the Nacodah of the Brig Moydeen Bux, and fifteen other persons, for dealing in slaves contrary to the said Act, and to an opinion which they understand has been expressed by the Advocate General in a report to Government upon this case that the forfeitures under the Act must be condemned in some Admiralty Court. The Law Commission direct me to request, that the Right Honorable the Governor in Council will be pleased to cause them to be furnished with copy of the opinion of the Advocate General and an account of the proceedings on the case both before the Magistrate and before the Supreme Court.

*From the Secretary to Government, Madras, to Secretary to the Indian Law Commission, dated 2d April, 1840.* No. 2.

I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your Secretary's letter of the 11th instant, and in transmitting to you copies of the papers\* noted in the margin, which contain the opinion of the Advocate General and the reports of the Beach Magistrate relative to the case of the Nacodah of the Brig Moydeen Bux and others, charged with slave dealing, to state that the parties were acquitted on the trial before the Supreme Court on a point of law in consequence of a verbal omission in the indictment.

Neilgherries, Ootacamund.

\* From the Advocate General, 5th November, 1839.  
From the Beach Magistrate, 4th November, 1839.  
Ditto 4th December, 1839.  
Ditto 3d January, 1840.

\* See Nos. 3, 4, 6 and 7 seq.



No. 3. *From Mr. Advocate General George Norton to the Secretary to Government, in the Marine Department, Madras, dated 5th November, 1839.*

I have the honor to report, for the information of the Right Honorable the Governor in Council, that an enquiry is now proceeding at the Police Office into a case of extensive slave-dealing, carried on by sea and at various ports of this side of India by a vessel now in the roads owned and navigated by Mussulmen. The slaves discovered on board are all of very tender age, none being above seven or eight years old, and some apparently no more than four years old.

Upon learning the matter from a personal communication of the Magistrate, the Master Attendant (who is conducting this enquiry) I judged it expedient without loss of time to instruct Mr. Rowlandson, the Solicitor, who is the partner of the Honorable Company's Acting Solicitor at present, confined to his bed by serious illness, to wait on the Magistrates, and offer his professional assistance (in the place of the Honorable Company's Solicitor) in the investigation now proceeding,—and subject to the sanction of Government. I conceive it a very fit case (should there appear eventually ground for committing any of the parties charged for trial in the Supreme Court) for a public prosecution by the Law Officers of Government.

At the same time it appears fit that I should recall to the consideration of the Right Honorable the Governor in Council, that under the instructions of the Supreme Government of India, communicated to the Chief Secretary in the letter of the Secretary to that Government of 9th September last, for the information of this Government (and which were forwarded to me under the Minutes of Consultation of 10th ultimo, No. 807) the Government of India has directed, “that it should rest entirely with the Honorable Judges on perusal of the depositions to determine in what cases of those sent up by the Magistrates in which no Counsel has been retained for the prosecution, the services of the Government Officers should be employed on the part of the Crown.”

If this rule should be strictly enforced, I should be premature in thus anticipating the opinion of the Honorable Judges. But I conceive it must be obvious on consideration that not only in this but in all other cases, the professional assistance,—which is chiefly valuable, towards conducting the investigation, seeking the available evidence, and maturing the case for Counsel's instruction,—will be lost, and that any direction which may come from the Honorable Judges after they shall have considered of the depositions, will generally come too late for the Law Officers conducting the prosecution with due efficiency. Moreover as neither they, nor the Judges themselves will have had any opportunity whatever of learning the real merits of the case, save as far as may appear from the depositions, the duty of Counsel will, as I apprehend, be confined merely to the tenor of those depositions, and the law as arising therefrom, both as regards addressing the Jury or the Court and the examination of the witnesses at the trial.

With regard to the only other occasions in which the Law Officers of Government under the above instructions are to interfere in aid of the prosecution, namely, “when Counsel for the defence happen to be retained,”—I would crave to submit for consideration that the effect of this rule will assuredly be that the Law Officers will never know of such retaining of Counsel for the defence until the very eve of the trial being called on ; when these officers who are to conduct the prosecution

will never know more of the merits of the case than the depositions disclose, and hardly have time indeed to ascertain the purport of the depositions themselves.

I trust, I shall be held excused, if I have been led out of my proper course in noticing thus much; but it seemed to me at all events necessary that I should explain to Government some grounds for my deviating in the present instance from the instructions forwarded to me.

P. S. The above was written previous to the receipt of your letter of yesterday's date. I beg now to add that upon subsequent communication with the Beach Magistrate, there appears much reason to suspect that other vessels are engaged in slave trafficking along the coast, and particularly at Calingapatam, Vizagapatam, Bimlipatam and Nagore—at the first of which ports, children are now believed to be kept in waiting for another vessel which is bound to Nagore. I beg therefore to suggest that all the authorities on the Coast should be immediately apprized of this, and directed to take measures accordingly.

Under the Slave Dealing Act 5, George 4th, Chapter 113, this vessel and her cargo will (in case the slave dealing shall be established) be forfeited, and she may possibly be so also under the Registry Acts. But there are none but the Governors of Her Majesty's Colonies, or their deputed officers, or Her Majesty's Naval or Military Officers who are competent to seize such forfeitures, and they must be condemned in some Vice Admiralty Court. That jurisdiction, it has been decided by the Court here, does not exist at this Presidency for want of renewal of the Commission to the Chief Justice. Under these circumstances, it appears to me expedient that prompt notice should be sent to some Naval Officer nearest to Madras and also to the Admiral of the station. In the mean time I have under my consideration by what course the vessel may legally be detained here or elsewhere.

6th November, 1839.

*From Captain C. Biden, Beach Magistrate, Madras, to the Secretary  
to Government, dated Madras, 4th November, 1839.*

No. 4.

I have the honor to enclose the copy of a letter which I have addressed to the Company's Solicitor.

The subject is of such vast importance and requires such immediate attention that I have considered it my duty to adopt this course of proceeding without loss of time.

The detention of a vessel at this season of the year can only be justified under such extraordinary circumstances as those detailed in my letter to the Company's Solicitor; and I shall suggest to him the expediency of permitting the Brig to depart, after an examination of her crew, if consistent with the ends of justice.

Under all these circumstances, I am most anxious to be relieved from the responsibility I have undertaken, by receiving the orders of the Right Honorable the Governor in Council for my guidance.

No. 5. *From Captain C. Biden, Beach Magistrate, Madras, to Mr. A. Rowlandson, dated 4th November, 1839.*

As Mr. Rose, the Company's Solicitor, is prevented by severe illness from attending at his office, I have the honor to acquaint you that I have taken and detained in custody the Nacodah of the Native Brig Moydeen Bux, and several other persons implicated with him, on suspicion of their being concerned in kidnapping children under ten years of age, probably with an intent of dealing with them as slaves.

By the evidence adduced before me in support of these charges I am of opinion that they are well grounded; and I feel it my duty to solicit your advice and assistance in a case of such vast importance to the public interest.

Since the last examination of witnesses on Saturday the 2d instant, at 5 p. m., when ten children were taken by the Marine Police, and twelve by the General Police,—four more children have been found by the General Police Peons and are identified with the same parties. I have, therefore, taken upon myself the responsibility of detaining the Brig although her port clearance has been obtained, because I consider further evidence can be obtained from her crew, and as the Moydeen Bux is sailing under British Colors, it is probable that vessel may be liable to condemnation.

Under these circumstances I shall feel obliged if you will favor me with an interview, that we may adopt such immediate measures as may be deemed expedient, especially as the detention of the Brig is of consequence during this unsettled weather.

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No. 6. *From Captain C. Biden, Beach Magistrate, to the Secretary to Government, Madras, dated 4th December, 1839.*

I have the honor to forward for the information of the Right Honorable the Governor in Council, copy of a letter, with its enclosure, which I have this day received from the Collector of Ganjam.

The information which these letters convey corroborate such material points of the evidence adduced before me against the owner, the Nacodah, and other persons, lately belonging to the Moydeen Bux, and now in custody under a charge of Piracy and Felony, that I consider these offences can be clearly proved against them.

I will forthwith communicate this further intelligence to the Advocate General, and lose no time in acquainting the Collector of Ganjam whether in his, the Advocate General's opinion, it is necessary to have any of the witnesses alluded to in these reports brought to the Presidency to give evidence in support of the prosecution.

*From Mr. R. A. Bannerman, Magistrate, Purlah Remedey, Ganjam, No. 7.  
to the Master Attendant and Beach Magistrate, Madras, dated  
27th November, 1839.*

With reference to your letter of the 5th and to my communication to your address dated the 13th instant, I have the honor to transmit for your information copy of a letter received from my head Assistant, reporting the result of his enquiry into the circumstances connected with the recent shipment of children from the port of Calingapatam on board the Native Brig Moydeen Bux.

From Mr. Conway's letter you will observe that the embarkation of the children on board that vessel by the Nacodah and others belonging to the Brig can be proved by a number of individuals who have been examined, and the substance of whose declarations is stated in Mr. Conway's letter; but the fact of the children having been conveyed away from thence with a view to their being introduced at Nagore or elsewhere as slaves, can, I presume, be sufficiently established by evidence already available at Madras. If further evidence on that head should be required, one or more of the persons mentioned in Mr. Conway's letter, might be produced as witnesses. To support a charge of kidnapping, however, I conceive, it would be necessary to adduce such evidence as would shew that the possession of the children was improperly obtained either by force or fraud by the parties in whose custody they have been found. But as the children do not appear to have been procured in the neighbourhood of Calingapatam, or from any places within the limits of this district, it has not been practicable to ascertain under what circumstances they may have come into the possession of the Chooliahs. It seems probable that most of the children have been brought from the Vizagapatam District where much distress was experienced during the past season; but if the names of the villages to which the parents of the children belong can be ascertained, as suggested in my letter of the 13th instant, the means would be afforded of prosecuting the enquiry with more effect.

It would be observed that the Head Assistant Magistrate has communicated to the Magistrate of the Vizagapatam District such part of the examinations taken by him as seemed calculated to assist Mr. Arbuthnot in the enquiries he may have instituted into the case, with the result of which, I conclude, he will acquaint you.

Measures have been adopted to prevent the embarkation on vessels touching at or sailing from the ports in this District of children or young persons not belonging to such vessels.

*From Mr. T. Conway, Head Assistant Magistrate, Calingapatam, No. 8.  
to Mr. R. A. Bannerman, Magistrate of Ganjam, dated 21st  
November, 1839.*

I had the honor to receive on Friday last, at Chicacole, your letter of the 13th instant, forwarding for my information an original letter, with its enclosures, from the Beach Magistrate at Madras; and requesting me to institute an inquiry into the case of a number of young children having been shipped from Calingapatam,

on board the native Brig Moydeen Bux, which sailed from that port about the beginning of last month.

A number of paupers find relief at Chicacole, by the charitable exertions of the resident Missionary, Mr. Dawson, who is assisted by subscriptions received from the European and Native inhabitants at the station; and as I was aware that many of those unfortunate people had emigrated from the Vizagapatam District, in consequence of the scarcity, and as many of the children referred to have come from that neighbourhood, I thought that I might probably obtain, through their means, some information in respect to the transaction under notice, or that I might by chance find amongst them the parents of some of the children; with this view, I got the list containing the names of the children, and of their parents, taken to the place, where they are fed. I failed in obtaining any information direct from them, but it happened that there was present, a Peon, who has been permitted to assist in distributing the alms to those people, who mentioned that an orphan child, by name Modena Saib, of Toonee Pikaroupett, in the Vizagapatam District, had been fed for some time at this Asylum, and had been taken away by some Choolia people (name unknown); he saw the boy in the town of Chicacole, with his head shaved, in the company of the abovementioned people, who had with them three or four other children, and on his asking the boy why he had ceased to come for his food at the charitable institution, he told him that the Choolia people had offered to take better care of him, and that he wished to go with them. The Peon learnt from the Choolia people, that they belonged to Nagore and were proceeding at that time towards Berhampore, and he informed me that strangers of the Choolia caste in passing through Chicacole usually lodged in the house of a person named Meerah Saib. I accordingly sent for Meerah Saib and he has stated that Tambceham, the Nacodah of the before mentioned brig, lodged in his house for two months, he (the Nacodah) having come to Chicacole for the purpose of disposing of part of the cargo of his vessel; that several of the crew, &c. had accompanied him; and some of them had gone to Bimlipatam for a short time, and returned, bringing with them four children, which the Nacodah and crew proceeded with to Calingapatam, the day after they were brought into his house; he states he does not know how they were procured but that they were not of his caste, and without hesitation informed me that two Choolia people had that very morning brought with them from Bimlipatam two children of the same description.

It is not improbable that the boy, the third in the second sheet of the list, is the one here alluded to, and that in giving Hussein Saib as his former and present name, he has not understood the question put to him. The age and height noticed in the list agree with that given by the Peon.

On examining the two persons above alluded to, as to how they became possessed of the children in question, they state that their parents brought them to them at Bimlipatam, and begged them to take them, and in return they gave a few rupees. One of the children is a girl of about seven years, and the other a boy of about five years of age. They have mentioned their own names and that of their relations and villages, and corroborate the statement made by the Choolia people. I have sent copies of the proceedings taken by me in the above matter, to the Magistrate of Vizagapatam for his information, and I have informed him that the parties will be detained at Chicacole, pending his wishes in respect to their disposal.

On arriving at Calingapatam on Saturday morning, I sent for two Choolia people, who I understood to be residing in the village, and I discovered they had under their protection three children, which they had obtained under somewhat similar circumstances. Two of these children are very young, but from the enquiries I have made, I have no doubt that they have adopted them in consequence of their friendless and destitute state. One of the above children has been about a year,

and the other three or four months with them. The third is a lad about 14 or 15 years of age. His father and mother it appears belonged to the village of Calingapatam, and died when he was three years old, since which he has been adopted into the family of one of the Choolia people abovementioned,—has never left the village, and has adopted their dress and caste.

The Nacodah of the Brig “Moydeen Bux” during the period his vessel was detained at this port, rented an empty house from the Choolia people abovementioned, and his crew and some of the passengers rented houses from other parties here. These parties saw the children before they were shipped, and would seem to have been aware that they had been brought from Bimlipatam. The barber of the village states he shaved the heads of ten or fifteen children, of various castes, at the house rented by the Nacodah, and if required would no doubt be able to recognise some of the children. The owner and Tindals of six boats speak to having taken on board the whole party and each boat carried from three to five children. One party mentions that the day after the children were shipped a person, by name Syud Shá, took about ten children with him to Bimlipatam, which account corroborates what the boy Hassein Ally alias Cessee Unna has stated,—viz. that there were fourteen children left behind to be shipped by another opportunity, and I imagine they have been shipped from Bimlipatam, or are there still. This circumstance, I have communicated to the Magistrate of Vizagapatam.

I examined the two Choolia people, and the agent of the vessel, in the hope of obtaining some information from them, as to the object these children are required for, but they answered very reluctantly, and equivocally, all the questions put to them, and I fancy the fact of their having been so intimately connected with the Nacodah and his party is the cause of their being unwilling to communicate any information which they probably are possessed of. The Sea Custom Gomastah states that he saw the children, but that having been told by the Nacodah and others, that they were part of their families which they brought from Bimlipatam, he had no suspicion of there being any thing improper or requiring to be reported.

I am inclined to think that the children have not been procured in this neighbourhood, and were brought at intervals, and that they have been obtained by the exertions of the Nacodah and his crew unaided by residents in these parts, and if the above circumstances do not afford evidence of the nature required to bring the parties now at Madras to justice, that further evidence can only be obtained by the Vizagapatam Magistrate. I understand that during the famine which prevailed in the Northern Districts in 1832-33, a number of children, obtained under similar circumstances to the present, were discovered at Masulipatam, and the parties who were Choolia people also, were brought to trial before the Court in that Zillah, but the Foujdaree Udalt in their proceedings under date the 17th September, 1839, have declared that the sale of a child, in the provinces, in a season of famine, is not punishable by the Mahomedan Law, and judging by the account given by the children and the present appearance of the circumstance under which children come into their possession, I am of opinion it will be found that the poverty and distress which is prevailing, has occasioned the unnatural disposal of the children by their parents, or in other cases that their orphan and destitute state have led children to accept the protection of these Choolia people, and under these circumstances that there will be a difficulty in bringing to punishment any parties, we may apprehend, who have the children of others in their possession. But if it is apprehended that advantage is taken by these Choolia people to procure children in times of scarcity

with a view of subjecting them in their country to slavery, I would venture to point out the facilities open to them for effecting their mercenary object so long as the unfortunate parents or destitute children can find no other asylum.

There are now a number of miserable objects at Chicacole which the charitable institution, established there, has been the means of drawing to that point, but on the removal of the Court from Chicacole the means now at the disposal of the Missionary alluded to, will be withdrawn, and unless these unfortunate people are relieved by the bounty of Government their state will be miserable. I would therefore take this opportunity of recommending some steps to be adopted for their relief.

I have issued the necessary orders to the officers at the several ports along the coast for preventing any children being shipped therefrom, and I request to be informed what you wish to be done with the children here, and at Chicacole found in the possession of the Choolia people abovementioned, and also with any others who may be recovered from persons who have obtained them under similar circumstances.

No. 9. *From Captain C. Biden, Beach Magistrate, to the Secretary to Government, Madras, dated 3rd January, 1840.*

1. I have the honor to enclose for the information of the Right Honorable the Governor in Council, copy of a letter I received yesterday from the Collector of Vizagapatam, together with forty-three original translated Depositions referring to the pending investigation of the charges alleged against the owner, the Nacadah, and other persons taken upon the first and second of November last, on suspicion of being guilty of kidnapping children with intent to deal with them as slaves.

2. It appears from the evidence already obtained through the zealous exertions of Mr. Arbuthnot and declared by the statements of long and experienced residents within the district of Vizagapatam, (vide papers marked from 23 to 31) that the disgraceful practice of kidnapping and selling children has prevailed for a length of time, and the mart for this nefarious traffic has been between that portion of this Presidency and Nagore.

3. Famine and seasons of misery and distress may in some degree palliate the enormity of such offences, yet it is too obvious that these primary causes are frequently made the plea for a progressive and continual source of evil, whereby designing and mercenary offenders may pursue their object to any extent; the systematic schemes of the buyer and seller are evidently shown throughout this our first grand effort to subdue a practice which has been most fraudulent and extensive, and must have produced many instances of cruelty and oppression.

4. The Advocate General and I myself have had under our consideration the most conclusive evidence afforded by these depositions; and by his advice I shall now commit the party in custody for trial: they have hitherto been remanded from time to time in defiance of every attempt to obtain their release by a Writ of Habeas Corpus.

5. We are of opinion that as nine of the depositions have positive reference to the parents and near relations of the children themselves who were rescued from the

Brig Moydeen Bux, undoubted testimony can be made available to prove the criminal acts charged against the party in custody by enforcing the attendance of those persons whose statements I have alluded to.

6. It is, therefore, of the utmost importance, that ulterior proceedings against the offenders in question should be deferred until the arrival of those witnesses at the Presidency. The evidence they have given before the Collector and Magistrate of Vizagapatam confirms so much of what has already transpired in the several examinations I have gone through with parties under my charge, that we have reason to believe the whole case against the prisoners can be clearly established.

7. The Government have afforded the most liberal and ample means to pursue this most important investigation through all its bearings, and many apparent obstructions and difficulties in our proceedings have been overcome. It would therefore, in my humble opinion, be most unjust and impolitic to allow any legal objections or technical opposition to impede the fair and upright course of obtaining the ends of justice, in as much as in this stage of our proceedings we can obtain the means required to insure an equitable result.

8. The enactments of laws for the subjection of the slave trade are so severe and imperative, that every person found on board a slave vessel is, in some degree, implicated in the crime. The owner, the Nacodah, and those persons about to be finally committed under the Slave Act are principally identified, and all are more or less involved by the evidence which has been adduced before me. I have therefore no apprehension as regards any legal attempts which may be made to thwart the process of conviction before the Supreme Court: but I am doubtful whether all the necessary witnesses can arrive by the 15th instant, when the Sessions will commence.

9. To obviate any endeavour which may be made on the approaching Sessions to foreclose this serious and important case, we have every confidence and assurance in the talented zeal and support of the Honorable Company's Law Officers; and the present opportunity is most favorable for the annihilation of a practice which has hitherto obtained apparent sanction under the rooted habits and customs of a needy portion of the natives themselves on one side, and the evil propensities of a domineering Mussulman caste on the other.

10. I have every reason to believe that the detection of the persons concerned in this transaction was chiefly owing to the number of children they brought from Calingapatam on board the Moydeen Bux. It appears, that after her departure from Bimlipatam on her intended voyage to this port and Nagore, she was driven in at Calingapatam by stress of weather and remained there during the whole of the S. W. Monsoon. This unexpected deviation and detention afforded time to procure so many children: and I suppose the practice had hitherto escaped the vigilance of the Officers of Government through the parties engaged in the traffic, shipping off only a few at one time. But all attempts of the kind may be prevented hereafter by compelling the Commanders or Nacodahs of all native vessels to give in at every port they touch, attested lists of their crew and passengers.

11. With reference to the 8th\* paragraph contained in the enclosed letter, you will observe that the Collector of Vizagapatam has applied to the Magistrate of Tanjore for information respecting the disposal of the children transported from the Northern ports to Nagore. Such a statement is much wanted, and may throw considerable light on the whole history of these transactions: he also states in the

\* See No. 10 *seq.*



same para. that he wishes to know what steps he is to adopt regarding the disposal of a number of children he has discovered within his district who are in the possession of some Chooliah people. The children, he alludes to, have declared their wish to remain where they were found: but it may be observed, that they have been made converts to a new religion and caste, and cannot be considered as free agents.

No. 10. *From Mr. W. U. Arbuthnot, Magistrate, Vizagapatam, to Captain C. Biden, Beach Magistrate, Madras, dated 24th December, 1839.*

I have now the honor to submit my proceedings with translations, relative to the children supposed to have been taken on board vessels at the Northern Ports for the purpose of being disposed of as slaves.

2. In this investigation, my attention has been principally directed to two points. First, to ascertain, as far as practicable, the history of the children discovered on board the "Moydeen Bux." Secondly, to ascertain to what extent the practice of procuring children has been carried, and how long it has existed.

3. I have prepared a statement which briefly exhibits the information I have been able to procure relative to the children now under your charge. I have been unable to have the relations of many of the children, although I have done every thing in my power to effect this object. In the first instance, I caused proclamations to be made throughout the district, calling on any persons who had lost their children during the famine to appear before me and represent their case as there was a prospect of their children being restored to them. None of the relations of the children under your charge came forward on this invitation, but many others have appeared. Some have stated that their children have been lost; while others acknowledged that they sold them. Subsequently on receiving the house names of the boys and the residing villages of their parents or relations, I issued orders to the different heads of Police to cause the attendance of the latter before me. Many of them, particularly those who were stated to be residents of Vizagapatam, were not to be found. Nor is this surprising when the circumstances of the past seasons are taken into consideration. In consequence of the number of starving families who crowded into Vizagapatam, a subscription was raised and a choultry established where rice and cony were distributed to such as from their age, debility, or state of health were unable to work. This attracted numerous families from great distance who for a time resided in Vizagapatam, but as the famine did not extend beyond the northern frontier of the district, many of them eventually emigrated to the Ganjam District and even beyond it. Vizagapatam and the adjoining hamlets are mentioned as the residing villages of most of the children. I am inclined to think that some of them must have come there merely for the time as their names are perfectly unknown.

4. In the accompanying proceedings\* will be found the depositions of such of the relations as could be found.

\* Not forwarded to the Law Commission.

5. I have seen no reason to suppose that the Chooliahs themselves have used violence to procure children; simply, because I know that any number of them might have been procured for the merest trifle, or even by persons of respectability for nothing at all. The practice of purchasing children is however a most objectionable one, and ought to be prohibited; because it serves as an inducement to unprincipled persons to kidnap children and dispose of them as their own. That this has been done in several instances, my present proceedings sufficiently prove. Indeed, there seems too much reason to suppose that the Chooliahs have not only neglected instituting any enquiries regarding the children brought for sale, but that they have, in some instances, purchased them from persons whom they must have known to be in the habit of trafficking in children.

6. You will not fail to observe that statements have been taken from all those suspected by you of being concerned in this transaction, as well as from several others who seem to have been concerned with them. The persons whose statements are marked from Nos. 14 to 20 are in custody, and will be detained till your wishes regarding them are made known to me.

7. I now pass to the second point to which my attention has been directed, viz. the extent to which the practice of procuring children has been carried, and how long it has existed.

8. Bimlipatam, which was formerly a Dutch Settlement has, from time immemorial, been the resort of Chooliah merchants. The head quarters of these persons is Nagore. But some members of the family reside at Bimlipatam, and passing to and from their own country carry on a very extensive trade. The evidence, which I now forward, proves beyond a doubt that these persons have ever been in the habit of procuring children and conveying them to their own country. They allege, and the people of the country evidently give credit to their assertions, that their object is to procure converts to their religion, lascars for their vessels, and slaves for domestic purposes. It is not in my power to ascertain what becomes of the children carried away from this part of the country. I have applied to the Magistrate of Tanjore for information on this point, but have not yet received his answer. I have found sixteen children in the houses of the different Chooliahs now residing at Bimlipatam. I have taken depositions from such of them as were old enough to make themselves understood; and they all expressed themselves perfectly satisfied with their situation. I should wish to be informed of the wish of Government regarding them. On my instituting the present enquiry the Chooliahs seemed disposed to turn them out of their houses: but as many of their parents were not to be found, I would not permit this to be done at present, but insisted on their supporting them till I could receive orders on the subject.

9. There has been some delay in disposing of this case in consequence of my being unavoidably absent from Vizagapatam on duty, when your first communication was received.

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No. 11. *From Sir, H. C. Montgomery, Acting Principal Collector, Tanjore,  
to the Collector of Vizagapatam, dated 24th December, 1839.*

In reply to your letter of the 23d ultimo, I have the honor to state that the answers, furnished by the officers in charge of the several ports, to questions put to them in consequence of it, give no grounds to suppose that it is customary for native vessels to bring children to the ports in this district for the purpose of disposing of them for domestic or other description of slavery.

The attention of the Sea Custom Department will be given to this subject.

No. 12. *Extract from the Proceedings of the Foujdaree Udalt, under date  
the 17th September, 1839.*

### C I R C U L A R O R D E R.

No. 111.\*

Doubts having been entertained as to the course of proceeding, it is legally competent to a Magistrate to adopt, in the case of the sale of a child by its parent in the Provinces under this Presidency,—and the Mohummudan Law Officers of the Foujdaree Udalt having declared that according to the Mohummudan Law the act is not punishable when committed in a season of famine, and that at all other times it is punishable by Tazeer,—the Court of Foujdaree Udalt resolve to promulgate that opinion for the information and future guidance of the Judicial Officers subject to their control.

Ordered, that Extract from these Proceedings be sent to the four Provincial Courts of Circuit, with instructions to communicate the same to the several Criminal Judges and Magistrates within their respective Divisions by precept, returnable within ten days from and after its receipt.

\* See No. 1. of Appendix XV. seq.

## A P P E N D I X   X V .

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### *Sale of Children by Parents according to the Muhammadan Law.*

- No. 1. From Acting Register, Foujdaree Udalut, Madras, to Chief Secretary to Government, 19th November, 1839.
- No. 2. Opinion of GHULAM SUBHAN, *Kázi ul Kuzát* of the Nizamut Adawlut, Fort William, to whom the opinion of the *Mufti* of the Foujdaree Udalut, of Madras, was referred at request of the Law Commission for verification.
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## APPENDIX XV.

*From Acting Register, Foudaree Udalut, to Chief Secretary to Government of Fort Saint George, dated 19th November, 1839.* No. 1.

I am directed by the Judges of the Foudaree Udalut to acknowledge the receipt of the Order of Government, dated 8th November, 1839, No. 887, transmitting a communication under date the 21st ultimo, from the Officiating Secretary to the Government of India, and requiring the Court to report the circumstances under which the issue of their Circular Order, No.\* 111, regarding the sale of children by their parents was thought advisable, and to submit the following explanation on that point.

Enclosed in a letter from the Indian Government to the Law Commission, dated 16th December, 1839.

2. During several years past, references have, from time to time, been made to the Foudaree Udalut by the Judicial Officers in the Provinces for instructions, in regard to the disposal of cases wherein persons were charged with the sale and purchase of children for different purposes.

3. On the 24th May, 1817, the Magistrate of Vizagapatam reported that a "Hindoo woman made a verbal complaint before him that a police peon of the same caste had failed in his engagement with her in the purchase as a slave of her infant son, aged seven months. The child was sold for eight rupees, but the peon refusing the mother access to her infant, and not having procured her eldest son an employment as stipulated, the mother entreated permission to return the purchase money and to receive her infant again."

4. "This most extraordinary purchase and sale," the Magistrate observed, "was cancelled at his particular desire; for he could not satisfy himself as to the manner in which the complaint should be judicially determined,—both parties being in his opinion equally culpable." But on being informed by the Judge of the Zillah that the case was cognizable only by the Civil Court, he referred the matter for the consideration of the Foudaree Udalut, observing, that if the opinion of the Zillah Judge, that, under the existing Regulations, the parties were not liable to a criminal prosecution were correct, it was high time that "the defect in the law was rectified, and that slave-dealing was declared to be abolished in India."

5. In reply to this reference, the Court of Foudaree Udalut in their proceedings under date the 20th June 1817, observed, that "the matter is connected with the religious usages and institutions of the Native subjects of this Government, and it is cognizable as a civil action under the provisions of Section XVI, Regulation III of 1802," and that "the Magistrate is not authorized to take cognizance of the matter in question."

6. On the 5th December, 1825, the Collector of Tinnevely brought to the notice of the Foudaree Udalut through the Provincial Court for the Southern

\* See No. 12 of Appendix XIV. *Supra*.

Division, "a custom" which the Collector observed, "is, I believe, more or less prevalent throughout the Madras Territories, and as far as my own observation has gone, is more frequent in the District of Tinnevely. The practice I allude to," continued the Collector, "is the sale and purchase of female children by dancing women for the avowed purpose of bringing them up to a life of immorality. The custom is so notorious and its abominable tendency so evident, that no comment can be necessary; but I am apprehensive that unless it be specifically excepted from those purchases of children which are now (under some circumstances) legal, an opinion may be entertained that such dealings are countenanced by law. A prohibition of such transactions could not be complained of as an infringement of any acknowledged rights. It would serve as a check upon child-stealing which is occasionally practiced under the pretence of purchase, and the public expression of the will of the Government could not but have a beneficial tendency to promote morality."

7. In conclusion, the Collector recommended that the practice in question should be "prohibited by law."

8. The Judges of the Provincial Court submitted their opinion that there was "not any occasion for the interference of Government or for any special authority to be given to the Magistracy to prevent the sale of children to persons described in the Collector's letter. The sale of a child," the Provincial Court observed, "excepting under very particular circumstances, is punishable under the Mahomedan Law, and if the Magistrate is of opinion that the people are not aware of the fact, he has full authority, in virtue of his office, to issue a notification declaring that the crime of child selling is punishable by law."

9. In laying the papers before Government the Foujdaree Udalut recorded their concurrence in the opinion of the Provincial Court.

10. By a letter dated the 13th January, 1826, from the Secretary to Government, the Court of Foujdaree Udalut were informed that the Governor in Council entirely concurred with the Judges in deeming any enactment unnecessary; and with reference "to its connection with the ceremonies and observances, both civil and religious of the great bulk of the people," remarks were added in regard to the necessity for caution, in conducting any interference at all with the view of preventing parents or guardians from assigning children in the customary modes to be brought up to the profession of dancing women.

11. On the 16th August, 1839, the same Provincial Court (Southern) submitted a communication from the Magistrate of Trichinopoly, in which that officer requested to be informed whether the sale of a child by its mother is considered under the existing Regulations, an offence cognizable by the Magistrate; and whether he is in such a case to be content as has hitherto been the practice in this district with using his influence to annul the sale, or to send the case for final adjudication to the Criminal Court,—and on this occasion the Judges of the Provincial Court submitted their opinion, "that some specific penalty should be promulgated for the purpose of checking an offence so revolting to humanity, and that it should not be left at the discretion of the Magistrate, merely to use his influence to annul a sale of this description."

12. On receiving this reference the Court of Foujdaree Udalut called upon their Mahomedan Law Officers to state whether, under that Law, the mother in the case, reported by the Magistrate of Trichinopoly, would be liable to punishment: and in their answer those officers declared that she was liable to Tazeer or discretionary punishment.

13. It being found on reference to the Records of this Court that, in case No. 7 of the Malabar Calendar for the Fourth Quarter Sessions of 1819, the Mahomedan Law Officers had delivered in a Futwa declaratory of the non-liability to punishment of a party selling his or her child, the Court called upon their Law Officers to submit their reasons for dissenting from the Futwa of their predecessors in the case abovementioned; and those Officers then repeated the opinion already given; observing that it was accordant with the decisions recorded in the Books of Haneefah, that at a time when scarcity does not prevail, the people of this country are forbidden to sell their children, and that to do so renders them liable to Tazir.

14. Of the correctness of this last opinion, there could be no doubt; and the Court of Foujdaree Udalut adverting to the different references made to them on the subject, the discordant opinions which had been given, and the doubts generally entertained by the Officers in the Provinces, as to the course they were authorized to pursue in such cases, deemed it proper, as stated in the Circular Order\* under consideration, to promulgate that opinion, with reference to the provisions of Section 7, Regulation X. of 1816, for the information and future guidance of the Judicial Officers subject to their control.

*Opinion of Gholám Subhán, Kázi-ul-kuzát of the Nizamut Adawlut, No. 2.  
Calcutta, to whom the opinion of the Muftis of the Foujdaree  
Udalut, of Madras, was referred at request of the Law Com-  
mission for verification.*

As directed, I have considered the points contained in the opinion of the Muftis of the Foujdaree Udalut, as set forth in the case referred to in regard to sale of their children by parents. I state my opinion under the Muslim Law. The Muftis write that "the father and mother who sell their children in times of "scarcity and drought are not liable to punishment: but if at any other time they "sell, they are liable to punishment (Tazir.)" This opinion conforms to the reports of some jurisprudents who hold, that in need and the extremity of want, the sale of a free person, is legal. But this doctrine, on the basis of which exemption from Tazir rests, is only founded on the marginal annotation of our Lord, Allah Dád, who copied it from the Mahit and Zakhira. I have not found it in other books of recognised authority, and it is contrary to the principles of jurisprudence, for the contract of sale and purchase is limited and restricted to property: but the free man is not held to be property by any person,—that he should be the object of a sale. Therefore, the sale and purchase of a free person under all circumstances, according to the Muslim Law and the doctrine to be observed in expositions, is radically illegal. In my opinion, therefore, the parents who sell their children in dearth or drought are liable to discretionary punishment (Tazir); though of course the degree of that punishment would depend on the existence or non-existence of the need and urgent want of the parents.

True Translation.

J. C. C. SUTHERLAND, *Secretary.*

\* See No. 12 of Appendix XIV.





# APPENDIX XVI.

## BOMBAY.

### *Official Returns as to Slavery in the Provinces included in the Presidency of Bombay.*

- No. 1. Letter from the Law Commission to the Register of the Courts of Sudr Dewanee and Foujdaree Adawlut, Bombay, dated 10th October, 1835.
- No. 2. Reply thereto from the Register of the Bombay Sudr Foujdaree Adawlut, dated 14th May, 1836.
- No. 3. Return by Mr. G. Grant, Acting Judge and Session Judge of Surat, inclosed in No. 2.
- No. 4. ——— Mr. W. Richardson, Assistant Judge and Session Judge, Broach, inclosed in Idem.
- No. 5. ——— Mr. P. W. LeGeyt, Acting Judge and Session Judge, Ahmedabad, inclosed in Idem.
- No. 6. ——— Mr. J. A. Shaw, Judge and Session Judge, Conkan, inclosed in Idem.
- No. 7. Enclosure of No. 6 from Mr. W. J. Hunter, Acting Senior Assistant Judge and Session Judge, Rutnagiree, dated 6th January, 1836.
- No. 8. Return by Mr. A. Bell, Judge and Session Judge, Poona, inclosed in No. 2.
- No. 9. ——— Mr. G. H. Pitt, Acting Assistant Judge, Sholapoor, inclosed in No. 8.
- No. 10. ——— Mr. R. D. Luard, Acting Joint Magistrate, inclosed in No. 9.
- No. 11. ——— Mr. B. Hutt, Acting Judge and Session Judge, Ahmednugger, inclosed in No. 2.
- No. 12. ——— Mr. W. Birdwood, Assistant Judge and Session Judge, Khandesh, inclosed in No. 11.
- No. 13. ——— Mr. J. B. Simson, Judge and Session Judge, Dharwar, inclosed in No. 2.
- No. 14. ——— Mr. J. Vibart, Principal Collector, Surat, inclosed in Idem.
- No. 15. ——— Mr. N. Kirkland, Acting Sub-Collector and Joint Magistrate, Broach, inclosed in Idem.
- No. 16. ——— Mr. J. H. Jackson, Acting Magistrate, Ahmedabad, inclosed in Idem.
- No. 17. ——— Mr. W. Stubbs, Magistrate of Kaira, inclosed in Idem.

- No. 18. Return by Mr. W. Simson, Acting Magistrate, Tannah, inclosed in Idem.
- No. 19. ——— Mr. A. Remington, Assistant Collector and Magistrate, Tannah, inclosed in No. 18.
- No. 20. ——— Mr. George Coles, Acting Assistant Magistrate, Tannah, inclosed, in No. 18.
- No. 21. ——— Mr. J. M. Davies, Second Assistant Magistrate, Tannah, inclosed in No. 18.
- No. 22. ——— Mr. H. H. Glass, Collector and Magistrate of Rutnagiree, inclosed in No. 2.
- No. 23. ——— Mr. R. Mills, Magistrate, Poona, inclosed in Idem.
- No. 24. ——— Mr. R. D. Luard, Acting Joint Magistrate, Sholapoor, inclosed in No. 23.
- No. 25. ——— Mr. G. Malcolm, Acting First Assistant Magistrate, Poona, inclosed in No. 23.
- No. 26. ——— Mr. H. P. Malet, Acting Second Assistant Magistrate, Poona, inclosed in No. 23.
- No. 27. ——— Mr. H. E. Goldamid, Assistant Magistrate, at Kusba Indapoor, inclosed in No. 23.
- No. 28. ——— Mr. R. D. Luard, Acting Joint Magistrate, Sholapoor, inclosed in No. 2.
- No. 29. ——— Mr. H. A. Harrison, Magistrate of Ahmednuggur, inclosed in Idem.
- No. 30. ——— Mr. W. S. Boyd, Magistrate, Khandesh, inclosed in Idem.
- No. 31. Extract of Report from Mr. M. Larken, Assistant Magistrate, Khandesh, inclosed in No. 30.
- No. 32. ——— Mr. John A. Dunlop, Acting Principal Collector and Magistrate, Belgaum, inclosed in No. 2.
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## APPENDIX XVI.

## B O M B A Y.

*From Frederick Millett, Esquire, Secretary to the Indian Law Commission, to Philipp LeGeyt, Esquire, Register of the Courts of Sudr Dewanee and Foujdaree Adawlut, Bombay, dated 10th October, 1835.* No. 1.

The Indian Law Commissioners having under their consideration, as connected with the preparation of a Criminal Code, the system of slavery prevailing in India, I am directed to request that the Courts of Sudr Dewanee and Foujdaree Adawlut will favor them with information on the following points.

1st. What are the legal rights of masters over their slaves with regard both to their persons and property which are practically recognized by the Company's Courts and Magistrates under the Bombay Presidency.

2d. And as more immediately connected with the Criminal Code, to what extent is it the practice of the Courts and Magistrates to recognize the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of punishment; and what protection are they in the habit of extending to slaves, on complaints preferred by them of cruelty or hard usage by their masters.

3rd. Whether there are any cases in which the Courts and Magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters.

With the exception of Sections 30, 31 and 32 of Regulation XIV. 1827, the Commissioners do not observe in the Bombay Code of Regulations any specific provisions on this subject; and with reference to the investigation directed in Section 31 above-mentioned to be made by the Magistrate previous to the registration of a slave, and the general rules prescribed by Sections 26 and 27, Regulation IV. 1827, as to the laws and usages to be observed by the Civil Courts in the trial of suits, they are desirous of being informed whether the Courts or Magistrates would admit and enforce any claim to property, possession, or service of a slave, except, on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant.

- No. 2. *Answer of the Register, Bombay Sudr Foujdaree Adawlut, dated 14th May, 1836, to letter of the Law Commission, dated 10th October, 1835.*

So little is slavery a subject of litigation that but few cases are brought for final adjudication before the Judges of the Sudr Adawlut on the Criminal side of the Court, and still fewer are submitted to the Court in its civil capacity. This consideration was an additional reason for seeking for information from the Provincial Authorities on the several points propounded by the Law Commission. A circular call was accordingly made to the Judges, Session Judges and Magistrates, and I am now instructed to forward the result as exhibited in the reports annexed, and which, I request, you will lay before the Law Commission. I am directed by the Judges of the Sudr Adawlut to observe, that in their opinion, some of these papers appear to contain valuable matter, and treat the subject with great discrimination. Taken as a whole they lead to the gratifying conclusion that the laws of 1827 are in successful operative force for the gradual extinction of a practice, so abhorrent as is slavery to natural right, as well as to the real health of the social compact of civilized life. With reference to the 3rd paragraph of your letter, I am instructed to state that the Bombay Code contains no further specific provisions on this subject, than those cited by you; and in regard to the question whether the law is limited to Mussulman and Hindoo claimants and defendants in relation to slavery, I am directed to say that it is not, but would apply to all persons whom the Law of England does not exclude from such relative positions.

- No. 3. *Enclosure of letter of Register Sudr Foujdaree Adawlut, dated 14th May 1836, being Return made by Mr. G. Grant, Acting Judge and Session Judge of Surat, dated 22nd February, 1836.*

In the Zillah of Surat there are two descriptions of persons who may be denominated slaves—Gholams and Halees. The former are slaves in the usual and full acceptation of the word, being persons or their offspring who have been purchased for a sum of money, or other consideration, whereby they became, to all intents and purposes, the property of the purchaser. The master, agreeably to both Mahomedan and Hindoo Laws, has a right to the possession and services of his slave, save where by act of his own free will he has relinquished such right either wholly or in part. With regard to their treatment, different customs prevail in different castes. In some they are looked on more as members of the family than slaves and form connections in the family. In all, the master is bound to feed, clothe, and house them. They are generally married at their master's expense. The property of a Gholam, however acquired, belongs to the master, except were alienated by him, the master's, own free act. By the Mahomedan and Hindoo Laws, a master may sell his slave; and prostitution forms part of the services which he may exact from his female slave. By the Company's Regulations no sale is permitted except in time of famine; and

sale for the purpose of prostitution is strictly forbid. The Halees,—so called from the word “Hull,” a plough, their chief employment being that of ploughman,—may more correctly be denominated bondsmen than slaves. They are persons, or their offspring, who have sold their labour for an advance of money, and who are bound to serve the lender and his heirs, until they are able to repay the sum. They almost entirely consist of Dooblas and other low castes of Hindoos. The master is bound to feed and clothe them, give them a piece of land and to defray their marriage expenses, the sum laid out on the latter however being added to the original amount, for which their services became his. Such property as a Halee may acquire, either by gift, inheritance, or by work done, when his services are not required by his master, is his own. The services of a Halee cannot be transferred to another master against his will.

The Records of this office do not enable me satisfactorily to state what legal rights of masters over their slaves, the Court practically recognize,—different views of the subject appearing to have been taken by the different trying authorities. My own impression is, that a Magistrate is bound to uphold and enforce by every means falling short of violence or cruelty, the master's right to the possession and personal services of his slave, sanctioned both by Mahomedan and Hindu Laws, and the usage of the country,—so long as he, the master, fulfils the obligation which rests with him to feed, clothe, and in other respects well treat his slave. The same principle would, in my opinion, apply to a Halee or bondsman as to a Gholam or slave.

2. Personal restraint is, in my opinion, the only act, otherwise punishable, which, the Court would recognize the relation of master and slave as justifying, or constituting a ground of mitigation. Cruelty or hard usage on the part of a master to his slave would meet with the same discountenance, and punishment as where both parties were free. And any flagrant instance would cost the master besides, the loss of his slave, and give the latter his liberty.

3. No case could, I imagine, occur in which a Court would afford less protection to a slave than to a free person against other wrong-doers, than their masters. The right to property, possession, or service of a slave would, I should imagine, be equally recognized by the Court, on behalf of others, than Mahomedan and Hindoo claimants against Mahomedan and Hindoo defendants. The Regulations are silent on this point, and by Mahomedan and Hindoo Laws and the usage of the country, there is no restriction as to caste.

*Return of Mr. W. Richardson, Assistant Judge and Session Judge, No. 4.*

*Broach, dated 21st December, 1835, enclosed in No. 3.*

I beg to state, that the master has a right to demand service from his slaves. He is entitled to any property which the slave may have amassed even during his life time. Should the slave on his death leave any property, the master is entitled to it.

2. It is not the practice of the Courts or Magistrates to recognize the relation of master and slave, either as justifying any illegal acts or as constituting ground

for mitigation of punishment. The master, on the complaint of his slave being proved, would be punished by fine or imprisonment, as is usual in all cases of assault.

3. A case could not occur in which less protection would be afforded by the Courts, or Magistrates to slaves than to free persons against other wrong-doers than their masters: neither would the Courts or Magistrates admit or enforce any claim to property, possession, or service of a slave, except in behalf of a Mussulman or Hindoo claimant against a Mussulman or Hindoo defendant.

No. 5. *Return of M. P. LeGeyt, Acting Judge and Session Judge, Ahmedabad, dated 8th January, 1836.*

3. In reference to the 1st\* query of the Commissioners, there is not one case on record either in the Dewanee or Foujdaree department, in which the legal rights of masters and their slaves with regard to their persons or property has been brought before the Court.

4. In reference to the 2d\* query, the information is equally deficient, as the Session Judge does not appear to have ever had any complaint before him, in which either party has pleaded as a slave, nor is there any case on record of a complaint by a slave against a master for cruelty.

5. In reply to the 1st part of the 3d\* query, from the total absence of any record to the contrary, I believe, I may safely state that less protection has never been afforded by this Court to slaves, than to free persons against other wrong-doers than their masters.

6. With regard to the latter part of the 3d\* query, I regret, I can find no precedent on record, but I am inclined to think that all persons to whom the possession of slaves is not forbidden by the established laws in force regarding them, such as British-born-subjects or others amenable to His Majesty's Supreme Court of Judicature, would be equally entitled to be guided by the Regulations of the country in respect to purchasing or selling slaves as Hindoos and Mussulmans. But as this is more properly an interpretation of the existing Regulations, I have perhaps over stepped my proper limits in mentioning it; and if such be the case, I trust the Judges will pardon me, and perhaps if wrong, be kind enough to set me to right.

\* See No. 1 of this Appendix.

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*Return of Mr. J. A. Shaw, Judge and Session Judge, Conkan, dated 12th January, 1836, to Letter of the Acting Register of the Sudr Dewanee Sudr Foujdaree Adawlut, Bombay, dated 20th November, 1835.* No. 8.

"I cannot find that there have ever been any cases, civil or criminal, in this Court, *determining* the rights of masters over slaves. During my own service, certainly none have occurred. I am aware, however, that some rights do exist in the common or unwritten law of the country, and I, as a Magistrate, (in former days) have on more occasions than one, given up a claimed runaway slave to his or her master,—not only, however, taking such precautions, as I could against *undue* severity, but distinctly, holding out the Civil Court as the court of ultimate resort in case parties were disposed to dispute *my* award. I have used the term "unwritten law" in the foregoing sentence, because the laws regarding slaves have accommodated themselves to the feelings of the present Government, in a great measure, although founded, originally on the now impracticable rules prescribed in the Koran and the Shasters. Notwithstanding that the present practices bear a certain degree of reference to the written Codes, I doubt very much whether *any* written Code is held in strict and general observance.

Under circumstances like these, it would seem to me, that there *could* be no very material difference in the *principles* on which decisions were framed between the slaves belonging to Christians and those belonging to Mussulmans or Hindoos. Slavery having been recognized and the written law rejected,—cases in which the rights of masters over slaves were tried, would be determined according to circumstances; and by these circumstances a distinction could only be sanctioned in the specification of the civil rights, which custom has introduced in the class of the parties who were interested in the dispute.

With the exception of such, generally admitted, rights over the property and person of the slave in the Civil Courts, and perhaps some trifling indulgence in the Criminal Courts, I do not know that a slave would, on the whole, enter our Courts, under circumstances less favorable than free-men.

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*Enclosure of above from Mr. W. J. Hunter, Acting Senior Assistant Judge, and Session Judge, Rutnagirree, dated 6th January, 1836.* No.

2. In reply, I beg to acquaint you that there are no cases in which the rights of masters over their slaves have been made a subject of investigation in this Adawlut, neither have any complaints ever been preferred by slaves against their masters on account of ill treatment or cruelty.

3. In all cases where slaves and persons (not being their masters) are concerned, the same protection is extended to them as to other subjects.

4. Musulmans and Hindoos are the only persons, in my opinion, who could be admitted by our Courts as claimants to the service or possession of a slave, and these only in cases where the defendants are also either Hindoos or Musulmans.



No. 8. *Answer of Mr. A. Bell, Judge and Session Judge, Poona, dated 9th March, 1836, to the Acting Register to the Sudr Dewanee and Sudr Foujdaree Adawlut, Bombay.*

With respect to the principle of the system,—I can most sincerely declare, that as far as my judgment, personal observation, and other means of information, enable me to offer an opinion, it appears to me that,—even admitting the clamour so generally raised against possessors of slaves in other parts of the world to be well founded (which however I cannot actually do to the full extent asserted),—it cannot, I conceive, apply in the slightest degree to the state of persons so designated in this country, either within the British Territories, or other powers in which this class of people almost always forms part of the family, to which they are attached, and are treated with the greatest possible kindness. This, it may be asserted, proceeds from *no*\* selfish notions. Admitting such to be the case, that very circumstance ought certainly to be considered as the strongest guarantee of protection to what is termed the enslaved party.

\* *Sic orig.*

Under the above view of the case, the law of “Master and Apprentice,” may be considered the most applicable in all its bearings.

It may appear a paradoxical assertion, but it can be clearly proved that slaves are far better treated in the Portuguese Settlements in India, and amongst the Mahomedans and Hindoos, who are all deemed to possess arbitrary notions, than they are by the Dutch Colonists, who were formerly Republicans.

In regard to the 3rd question, I am not aware of our Courts having on any one occasion afforded less protection to slaves than to free persons, against other wrong-doers than their masters,—both the Mahomedan and Hindoo laws prescribing the same protection to a slave, when wrongfully molested by any other than his master, as to a free person.

And in respect to the last query, namely, whether the Courts admit or enforce any claim to property, possession or service of a slave, except on behalf of a Musulman or Hindoo claimant, and against any other than a Musulman or Hindoo defendant,—I most undoubtedly think our Courts would be fully justified in so doing under the provisions of Section XXVI, Regulation IV, A. D. 1827.

I have the honor herewith to submit the remarks of my detached Assistant on this subject.

No. 9. *Enclosure of Mr. Bell's Letter from G. H. Pitt, Acting Assistant Judge, Sholapoor, dated 11th January, 1836.*

Having been in communication with the Joint Magistrate of this place, as well as the law officers of the Court and the Commissioners of this Division of the Poonah Zillah, I have now the honor to submit copy of the reply from the Acting Joint Magistrate, in which he states that the records of his office furnish no information

on this subject, and the several Commissioners also state that no case of slavery has ever come before them since the—\* 1823 when their Courts were established.

\* See original.

Perhaps in no civilized country has there been so small a proportion of slaves as in INDIA. No part of the field-labour is carried on by slaves though they are made use of for domestic purposes. Yet the number of persons are very limited in proportion to the population.

The soil, in this country, is cultivated by a caste both numerous and respectable: and it is the system of castes which is one of the causes of the exemption of slavery, in India; and also slaves being usually prisoners of war, and the Hindoo caste of cultivators being of a sacred order, therefore, they could not possibly associate: and hence those prisoners were not detained as slaves.

*Answer of Mr. R. D. Luard, Acting Joint Magistrate, Bhavay, No. 10.*  
dated 3d January, 1836, enclosed in Mr. Pitt's Letter.

I have the honor to inform you that the records of this office afford no information upon the subject.

2. I myself have had no experience whatever upon the points referred and can, therefore, give no practical information, which is, I should imagine, the only description required.

3. I have referred the case to the different Mamludars, who all report that slavery has not existed in their districts since the British Government.

*Answer of Mr. B. Hutt, Acting Judge and Session Judge, Ahmednugger, No. 11.*  
dated 17th December, 1835, to the Acting Register of the Sudr Dewanee and Sudr Foujdaree Adawlut, Bombay.

This is a very comprehensive question; \* for in the Civil Court we must admit whatever appears to be the usage of the country or the law of the parties, and in the Criminal Court—except in the few cases falling under Sections XXX, XXXI, and XXXII. of Regulation XIV. of 1827,—the law of the parties must also be the great guide. I have never yet been called on to pass judgment either in the Civil or Criminal Court in any case of this nature. Nor do I find any on the records of this Court, but such as come under the above quoted Section and Regulations. Slavery exists to a great extent in this country. There are few amongst the Hindoo or Mahomedan population who can afford it that have them not: and the fact of no cases coming before the Courts, is either,—a proof of the very mild character of it,—or the excessive ignorance of the whole of the lower classes of the protection which the British Government affords them,—or a combination of

\* Answer to Query

the two which, indeed, I believe to be the truth.\* The usage of the country and laws of the Hindu and Mahomedans give the master full power over the property of his slave; and he can dispose of his slave also in loan, gift, devise,—a mode of transfer not noticed in our Regulation and, therefore, not restricted.

\* Answer to Query 2nd.

There\* has been no practical experience in these matters: but were I required to try an ordinary case of assault in the Criminal Court, I should admit somewhat the same right on the part of the master, that the English law allows in a parent over his child, or a school-master over his pupil; and which is also that recognized by the custom of the country and the law of the Hindoos and Mahomedans and that, which the very right of property in the slaves recognized by the Regulation makes necessary. And as the heinousness of all offences will much depend on the moral or religious feeling of the class to which the culprit belongs, all but cases of a very aggravated nature would be considered entitled to exemption from, or a mitigation of punishment on this account.

\* Answer to Query 3rd.

I\* can conceive none except they be sanctioned by the custom of the country or laws of the parties. There are no rules for the guidance of our Courts, but those here cited, as the Government Regulation sanction slavery under certain limitations. I apprehend, all not immediately bound by English Law could claim redress in the Civil or Criminal Court against their slaves were they obliged to seek it.

No. 12 *Answer of Mr. W. Birdwood, Assistant Judge and Session Judge, Kandeish, 11th December, 1835, enclosed in above.*

From the very nature of slavery, the master from the time he becomes possessed of the slave must ipso facto be entitled to his property. The rights of the masters are, I believe, recognized as long, as they feed, clothe, and treat their slaves well. As the master possesses the slave's person, he also possesses every thing that can relate to it, as the slave can have no property of his own without his master's consent.

Answer to Query 1st.

Since the promulgation of the Regulation respecting slavery it has, I understand, decreased considerably, although they are still brought down from Berar and Nimar by Banjarees,—not so much however as formerly, as the risk run by the importer is much greater. As no case of the kind, mentioned in the 1st\* paragraph has become before the Court, I am unable to give the information I could wish on the subject. The Magistrate would, I have no doubt, be able to give a more full and detailed statement; as he is the authority in whom is vested the power by the Regulations of investigating all cases connected with slavery.

Answer to Query 2nd.

2.\* The Magistrate does not, I should imagine, recognize the relation of master and slave as justifying acts which otherwise would be punishable. The same protection is afforded to slaves as to any other class of individuals. A slave, if ill-treated by his master would be manumitted. They are brought up as members of the family and are married by their masters. \*If not treated well they would, in all human probability, complain to the Magistrate; and this of itself would be one great reason to induce masters to treat them with kindness; as if ill

\* See No. 1 of this Appendix.

## APPENDIX XVI.

usage against them as established, they would be set free, and of course the master would lose the services of his slave. The Kumbhans, I believe, are the principal purchasers of female slaves.

With regard to this\* paragraph, I should most certainly say there were not; as slavery is allowed by the Regulations under certain restrictions, I fancy that the Magistrate would be obliged to enforce any claim to property on behalf of a person not being a Hindoo or Mussulman in the same manner as if the parties were Mussulmans or Hindoos.

*Answer of Mr. J. B. Simson, Judge and Session Judge, Dharwar, No. 19.  
dated 23d February, 1836, to the Register to the Court of Sudr  
Adawlut, Bombay.*

2. In respect to the 1st† query,—the rights of proprietors, over the persons and property of their slaves recognized by our Courts and Magistrates,—there are certain qualifications laid down by enactment by which we are of course bound to abide: there are other occasions and occurrences in which few officers, I imagine, would not support the slaves, although it is possible that antecedent to the introduction of the British Government their owners, on application to the Ruling powers, might have been more favored: for instance, I much doubt if any tribunal would now compel a slave, especially a female, to return to his or her master if any ill treatment was proved against him. Unquestionably some property in the person of the slave does exist, and it is, I think, highly expedient that for the present, such should be recognized: we must bear in mind that the obligations are reciprocal: that the slave has a right to sustenance, if unable to obtain his own livelihood, so long as he has obeyed his master: we cannot enforce this claim unless we, in some manner, compel the former to perform his part of the engagements; hence we must admit the master's rights over him: were it otherwise, in sickness, dearth or other misfortune, what would become of the slave? We should be conferring on him a nominal emancipation, and entailing a serious injury. We should be following up a theory, at the price of a practical benefit. We should grasp the shadow, and lose the substance.

3. From a cursory examination, which is all I have had leisure to make, I understand that previous to our Government there were two species of slavery,—the one in a manner voluntarily entered into; the other a compulsory; the rights and privileges of master and bondsman in both often varying, and in many points alike.

4. The voluntary slave was one who had incurred a debt and engaged his or her personal services in liquidation of the principal or interest of that demand; the period of service was sometimes for life, sometimes for a limited period, and often, till the debt should be repaid, the master had no power to sell such slave; if the debt remained unpaid at the death of the bondsman, the proprietor had no right, as master, over the heirs. The terms of the agreement settled his claim as a creditor of the estate; for these slaves could possess property which would descend to their children or others, in like manner as if they were altogether free.

\* See No. 1 of this Appendix, Query 3rd.

† See No. 1 of this Appendix.

5. The compulsory bondsmen was a public criminal, whose offence did not authorize a capital punishment. Captives by chance of war were not viewed as slaves. Adultery was a common cause of slavery to women; these slaves could be bought and sold, or otherwise disposed of to others; they were deemed incapable of acquiring property in any way: their gains were due to their masters.

6. The features in which both kinds of slavery resembled one another, were, that all castes but Brahmins, including their widows, would be enslaved, but only to one of the same or of a superior caste. Nor did they lose caste by slavery; and their masters were not allowed to require services at their hands, which might endanger such a contingency. Children of slaves were never on that account slaves. Even if a master incurred the expense of his slave's wedding, this gave him no claim over his wife and offspring as slaves. It was unusual to give female slaves in marriage: but, if it occurred, the master lost all property in her, even if espoused to his own man slave, and she was bound to live with the latter rather than her former master. Moderate and reasonable punishment was sanctioned, enough to ensure the due discharge of legal service; but ill-treatment warranted complaint to the public authorities who were empowered even to release slaves if they considered that they had expiated their offences, or made good the debt which occasioned their servitude. Manumission, particularly at the master's death-bed, was not unusual and was binding on the heirs. A master could at any time discharge his slave, except when from age or disease, the latter could not gain a livelihood; he was bound to support him as long as these causes operated. No lapse of time prevented a master claiming a runaway slave.

7. In respect to the sale of children by their parents it would appear altogether forbidden and punishable by the Hindoo Law. It was connived at by the State in times of famine and difficulties, when the guardians had not the means, otherwise of supporting existence; and in practice, these sales were much more numerous than the above causes could in any way warrant; nor does the right of redeeming the child appear to have been reserved, and the powers of the purchaser corresponded with those of a master of a slave who had been a public offender.

8. If I am right in the foregoing summary, compulsory slavery is now no more; and there appears very little in the servitude voluntarily entered into, in which I should not feel disposed to enforce the old practice,—except, perhaps compelling a slave to return to his master; for, viewing it as a civil compact, I should consider the latter had his remedy at law, by a Civil suit to recover damages.

9. In respect to slaves purchased as children, such being clearly contrary to the law of the land, I should only so far give way to the custom of the country in opposition to that law, as to consider the slave in the light of one who had become so voluntarily; and where the rights of the master by prescription exceeded those powers he would have possessed over such a bondsman, I would not recognize them in any way: custom may have great weight, even beyond the law; but surely not in opposition to it, and in actual abrogation of it.

10. Applying these principles to the remaining queries\* of the Indian Law Commissioners, I might view with leniency a moderate assault, committed by the master upon his servant, occasioned by remissness on the part of the latter; but such indulgence would in no degree whatever extend to cases of cruelty or hard usage;

\* See No. 1 of this Appendix, Query 2nd.

## APPENDIX XL

either of which, in a Civil action would be damages from a runaway bondman, to a very dissipated man.

11. I should consider a slave when a party in Court as in all respects a freeman, excepting in so far as his own acts had rendered him amenable to his master, in purse, or person,—his actual labour if refused being compensated for through his pocket. But even this slight exception would in no wise extend to other wrong-doers, the subject of the Commissioner's 3d<sup>o</sup> query. These slaves retain entire their Civil rights; except where they have mortgaged them in part to their immediate masters. And in reference to the concluding part of Mr. Millett's letter, I certainly, speaking generally, should both admit and enforce a claim on behalf of any one and against any defendant, without reference to their religions, where the latter had bound himself in a manner, an apprentice to the former, for value received, and where the claimant had faithfully abided by his part of the agreement.

*Answer of Mr. J. Vibart, Principal Collector, Surat, dated 16th December, 1835, to Acting Register of the Sudr Dewanee and Sudr Foujdaree Adawlut, Bombay.* No. 14.

2. With regard to the first<sup>\*</sup> point submitted, I have to state that almost the only description of slaves known in these districts are the Halee or hereditary bondsmen, and usually employed in agricultural labour. The master's claim to these individuals is generally founded on expenses incurred in bringing them up from infancy, or for sums of money advanced to them for marriage expenses. During the time this money is owing, the individual and his family are held in bond. On repayment of these sums they all become free. By a letter from Government, dated 19th April, 1822, the Magistrates are authorized to apprehend and return to his master any Halee who may abscond, provided the complaint is laid within twelve months of the time of the absconding, and there appears no ground for supposing that he has suffered ill-treatment on the part of his master. In the event of a Halee refusing to return, the Sudr Foujdaree Adawlut have ruled under date 13th December, 1830, that though a domestic slave he can only be punished as an ordinary servant under the provisions of Clause 3, Section XVIII. Regulation XII. of 1827. The master possesses no right or title to any property that may be possessed by the Halee under any circumstances whatever.

2. With regard to the 2d<sup>o</sup> query, I have to state that the relation of master to slave justifies no acts which would be punishable in the case of any ordinary individuals. I have already mentioned that for misconduct the Halees can only be punished as ordinary servants. For any criminal acts they would, of course, be tried in the same way as any other offender under our Criminal Code. All complaints by slaves against their masters would be disposed of precisely in the same manner as if the acts complained of had been perpetrated by any ordinary party.

3. Slaves are afforded precisely the same protection against other wrong-doers as any other class of the Honorable Company's subjects. With regard to the concluding part of the 3rd<sup>o</sup> paragraph, I do not consider that I should be justified in

<sup>\*</sup> See No. 1 of this Appendix.

enforcing any claim to property, possession, or service of a slave, except on behalf of a Mussulman or Hindoo, and against any other than a Mussulman or Hindoo defendant. This is merely my view of the case as I can find nothing on record bearing on the point.

4. I can find no cases whatever on these records regarding any other description of slaves than those abovementioned, and as the Law Commissioners require to know the practice that exists, I conceive, any opinion unsupported by facts is not required.

No. 15. *Answer of Mr. N. Kirkland, Acting Sub-Collector and Joint Magistrate, Broach, dated 18th December, 1835, to the Acting Register to the Sudr Dewanee and Sudr Foujdaree Adawlut, Bombay.*

2. In reply, I beg to report for the information of the Judges of the Sudr Dewanee and Sudr Foujdaree Adawlut, that no legal rights of masters over their slaves with regard both to their persons and property are practically recognized by the Company's Courts and Magistrates in this Sub-Collectorate. The slaves may live with their masters as long as they please, and in the event of their being dissatisfied, they are at liberty to go where they please, and if the masters apply to the Magistrate, they are ordered to file civil suits for such damage as they may suffer from the loss of their slaves, but no force or threats, during my experience, has ever been made use of by the Court or Magistrate to prevail upon the slaves to return to their masters.

3. The practice of the Courts and Magistrates to recognize the relations of master and slave is to the same extent as other individuals independent of each other. When a complaint is preferred by a slave for cruelty or hard usage from his or her master, and if the charge is proved, the latter is dealt with in the same way as other subjects without regard to the relation of master and slave; and should it appear that the master would molest the slave, he is required to find security for his peaceable conduct towards the slave as a protection to the slave.

4. I am not aware of any case in which less protection is afforded to slaves than to free persons against other wrong-doers than their masters. Nor do I think the Court or Magistrate would admit or enforce any claim to possession or service of a slave; and with regard to property, if the master proves in the Court that the property is bonâ fide his, he would obtain a decree in his favor.

5. In the town of Broach there are sixty-two slaves altogether, two of whom are males and the rest females. In the Pergunnas of this Sub-Collectorate there are no slaves among the Government subjects; there may, however, be a very few with the Thakoorees of Ahmode, Kairwara, and other respectable Grassias.

*Answer of Mr. J. B. ...  
23d February, 1838, to the Acting Register to the Sudr Dewanee and Sudr  
Foujdaree Adawlat, Bombay.*

I beg to state that in cases of complaints of a criminal nature made by a slave against his master, the same measure of justice could be awarded by me in the case as I should give to any other complainant, as I find nothing in the Criminal Code which would warrant a partial decision either in favour of a master or of any other person.

With respect to the rights of masters over the property of slaves, (derived from lands which alone the Collector is competent to try) I have been unable, in the records of this office, to find a single instance in which a case has arisen wherein the merits of either have been tried. I should be inclined to be guided however, were a case to arise, by Regulation IV. Section 26, and the exposition of the law by the Law Officers, referring to the Hindu Law Officer when the master might be a Hindu; and when a Mahomedan to the Law Officer of the Mahomedan creed.

In cases where one or both of the parties might happen to be of the Christian religion, and more especially a British-born subject, I should feel it my duty to refer such case for the consideration of higher authorities, making their decision my guide.

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*Answer of Mr. W. Stubbs, Magistrate of Kaira, dated 14th January,  
1838, to the Acting Register to the Sudr Dewanee and Sudr  
Foujdaree Adawlat, Bombay.*

I do myself the honor, in reply, to state that as the questions asked by the Commission are not relative to what should be the course pursued, but what is and has been the course pursued in this Zillah with respect to slaves, the only correct answers would be afforded by a reference to past proceedings and to cases wherein complaints have been made by slaves against their masters and decided by the officers of this department.

2. Having, therefore, carefully examined the Magisterial records for a space of ten years, and having found only one case in which master and slave are concerned as complainant and defendant, I can hardly give a decided opinion as to what has been the practice with reference to such cases.

3. In this solitary instance, the master was convicted of keeping a female slave with irons on her legs and beating her. He was sentenced to six months imprisonment. He stated there was absolutely no recognition of any relation between master and slave which would justify any assertion punishable and constituting a ground for mitigation.



No. 18. *Answer of Mr. William Simson, Acting Magistrate, Tannah, dated 16th of March, 1836, to the Acting Register to the Sadr Fowjdaree Adawlut, Bombay.*

2. Messrs. Coles and Remington differ from Mr. Davies in considering the persons of slaves to be *absolutely at the disposal of the master, as well as their property*. Mr. Davies's analogy between the relation of master and slave and a contract seems to want precision. The conclusion, however, to be inferred is that, in his opinion, the slave is very much the master of his own person and services. All agree that slaves can hold no property independent of their master, and also, that in case of personal ill-usage, masters are subject to the ordinary rules applicable to violence and assault, equally with indifferent persons,—some slight consideration, perhaps, being allowed for the parental relation in which they are held to stand towards their slaves. Mr. Remington's instance of the slave by descent, being returned to the patell by the Magistrate, is very striking.

3. All think that the caste of the slave-owner would make no difference whatever in the view to be taken by the authorities when cognizant of cases, such as are particularized at the conclusion of the Secretary's Letter.\*

4. Applying my own impressions to the evidence now submitted, and answering the points referred in a general way, I would offer it as my opinion that, in this Collectorate, the rights of masters over the *property* of their slaves are *absolute*; over their *persons* and *services* very qualified,—ceasing the moment the master by using any duress becomes obnoxious to the ordinary law; that very little allowance is made for the sovereign or paternal character of the master; that slaves are commonly very well used; and that caste is of no consideration at all in practice.

No. 19. *Answer of Mr. A. Remington, Assistant Collector and Magistrate, Tannah, dated 11th December, 1835, to the Acting Collector and Magistrate of Tannah, enclosed in No. 18.*

And first, as to what are the legal rights of masters over their slaves with regard both to their persons and property. I have always understood it to be held, and such practices as have come under my own observation confirms the impression, that the services of persons sold into a state of slavery are of right due to their master and not transferable to other persons without his consent: subject to these disabilities are their wives, children, and subsequent generation who lie under the force of the same obligation to serve in the family of the original purchaser. In proof thereof, I would cite a case, which occurred a few months ago, where some slaves, the descendants of persons originally sold into slavery and the property of a Hindoo patell, having decamped into another Talooka, entered the service of Government as Sepoys,† but being claimed were restored to their owner by order of the Magistrate, and their situation declared vacant. As these persons can acquire no property on their own account,—supposing always they be retained in servitude, from

\* See No. 1 of this Appendix.

† Vide note at page 271 of the Report.

which some masters release them, especially those, who exhibiting a talent for any particular handicraft are enabled from the profit derived from their industry to purchase "a sootee putra" or manumission,—what property they do possess must be derived from and belong to their masters; who again, according to the rules which guide the relation between the two, may withhold their claim to it,—as where a slave is working out his own emancipation he nevertheless being in a state of slavery though comparatively free from its effect.

Slavery being of a very mitigated nature, in this country, persons unfortunately so situated differ in no other way from menial servants (who themselves in most instances are under obligations contracted to defray the expense of their marriage to serve for a limited time) than what such a predicament commonly expresses, namely, a continued state of slavery, and are subject to exactly the same treatment, any departure from which implying act of criminal nature would constitute most undoubtedly a case cognizable in the ordinary tribunals, and this applies of course with greater force to others than their masters.

A right to the possession of a slave is not, I apprehend, confined to caste and persons, who formerly retained slaves in their household, and perhaps now do though in a more limited way would find equal favor with the Court as either a Hindoo or Mussulman.

*Answer of Mr. George Coles, Acting Magistrate of Tannah, dated 9th March, 1836, to William Simson, Acting Magistrate of Tannah, enclosed in No. 18.*

No. 20.

1. It has always been my impression that the persons of slaves with all they are possessed of, are solely the property of their masters, and acting upon this I should not hesitate, upon an application from his owner, in restoring the person and property of a slave who might have absconded from his house.

2. Nothing further would be considered by me as justifying the master who had been guilty of an act towards his slave which, had not this relation existed, would be punishable, nor further mitigation of punishment be extended to him than what would be allowed by me to the head of a family in preserving the good order of his house; and any ill-usage or cruelty on the part of a master to his slave would be visited by me with the punishment provided by the Regulations for cases of assault, and if a repetition of ill-treatment was foreseen, the master would be called upon by me to give security for his future good conduct towards his slave.

3. The fact of an individual being a slave would make no difference in the protection which I should feel it my duty to extend to him as to any free person who has been injured.

4. I am not aware that the possession of slaves is restricted to caste: and any claims to the person's service, or property of slaves from others, would be attended to by me in the same manner as those made by Mussulmans and Hindoos.

No. 21. *Answer of Mr. J. M. Davies, Second Assistant Magistrate, Tannah, dated 11th March, 1836, to William Simson, Acting Magistrate, Tannah, enclosed in No. 18.*

2. In the Talook of Rygur, there are seventy-five slaves, chiefly African; in the Rajpoores District, there are eighteen; in Sankae, there are twenty-eight; and in the Talooka of Salsette and Oorun, there are thirty-two, being a total of one hundred and fifty-three slaves to a population of about two hundred thousand.

3. The persons of slaves are the property of their masters only so long as the former tacitly consent to remain in a state of slavery. There has not, however, occurred a single case during the nineteen years of the Hon'ble Company's jurisdiction in which this point has been tried in Court. Practically however the slaves are only such so long as they comply either tacitly or expressly with the conditions of their masters. Sooner, indeed, than degrade themselves by appearing in Court with a slave in the character of either plaintiff or defendant, the Moaulman or Hindu masters, of this part of India, would consent to relinquish all claim upon their services. With regard to property the case is different. The slave enjoys property, (whether obtained in free gift or acquired by labour,) only as a usufruct. The master lays claim to it in cases of death or of alienation. If a master relinquish his right over a slave all property held by the latter at the time, unless especially provided by agreement, belongs to the emancipated slave.

4. With regard to the relation recognized by the local Courts between master and slave as justifying any acts which would be termed illegal amongst free-men, the point has never been yet tried in a Civil Court that I can discover. But I for one should never construe Regulations IV or XVI of 1827, as warranting any invidious and unjust distinctions. I cannot however discover either a Civil or Criminal case of this nature on the records of my charge.

5. Slaves have never been registered in these districts.

6. In fact the relation between master and slave, as practically found to exist, bears a much nearer analogy to a contract either express or implied than to any recognized right on the part of the master or of obligation on that of the slave against the will of either party.

7. Slaves were originally brought down from the interior by a caste of traders called "Lahman," and were sold to the natives of these Talooks during the period of the Native Government. Rights and obligations were recognized as reciprocal and were insisted upon accordingly, but during the British rule by far the greater number of slaves have emancipated themselves owing to the unwillingness of their masters to try their right before any competent authority.

8. Alienation or transfer on the part of the masters is seldom known to occur. The descendants of the first purchased slaves are usually to be found in the family who first took them. They are in general well off as to bodily comforts, and are evidently satisfied with their lot. The fact of there being no tried case on record proves the facility with which they can, if they chose, rid themselves of their yoke without the interference of the Magistrate; while to suppose, that for nineteen years the masters have successfully prevented their slaves from complaining would be highly improbable.

*Answer of Mr. H. H. Glass, Collector and Magistrate of Rutnagiree, dated 1st March, 1836, to the Acting Register to the Sudr Dewanee and Sudr Foujdaree Adawlut, Bombay.*

No. 22.

2. In reference to the first\* of enquiry as to the legal right of masters over their slaves in regard to their persons and property recognized by the Courts and Magistrates, I beg to observe that Sections 30, 31, and 32 of Regulation XIV. of 1827, recognize slavery and the sale of slaves under certain limitations, and although there are no instances, on record in this office, of complaints having been made by a master against his slave, or by a slave against his master, yet on the occurrence of such, the interference of the Magistrate, I should consider, would be restricted to the prevention of violent assault or unjustifiable treatment. The right to property would be decided according to the law of the master under Sections 26 and 27 of Regulation IV. of 1827.

3. With regard to the second\* point, there is no part of the Bombay Code which would authorize a Magistrate in meting out punishment for an offence committed by a master against his slave to shew a greater degree of leniency to him than to any other offender. But the degree of authority and chastisement usually conceded as the right of the master of a family would, I imagine, to the full extent be granted to the owner of a slave. No less protection would be afforded to the slaves on complaints being preferred by them, against other wrong-doers than their master, than to any other individuals.

4. I have doubts if any class of persons, besides Mussulmans and Hindoos, possess slaves,—certainly none within my jurisdiction. No right of this nature, that I am aware of, has ever formed matter of litigation in our Civil Courts. But as the Regulations now in force make no exception in favor of any particular class or sect, I think, if a claim were made by a Portuguese for the property, possession and service of a slave, our Courts could not refuse to admit it.

*Answer of Mr. Richard Mills, Magistrate, Poona, dated 28th January, 1836, to the Register of the Sudr Foujdaree Adawlut, Bombay.*

No. 23.

2. I cannot call to mind that any dispute has ever been brought before me, between masters and their slaves, which has brought the question of the legal rights of the former over the latter under discussion. But were any complaint to be made, the course I should adopt would be to refer the question for the opinion of the law officer, and act, in deciding, according to the general principles of justice and equity. Whilst I would protect the slave from any harsh and severe measure, which the master might adopt, I would recognize the right of the master to exact such duties from the slave as are consistent with the maintenance of domestic authority, and the usages of the caste and religious law of the parties.

\* See No. 1 of this Appendix.

3. Independent of the power of the master over his slave, I would protect the latter in every respect, the same as any other individual of the community. Being a slave is no authority for any one to tyrannise over him; and I would punish on complaint, any acts of violence, etc. committed towards a slave, in the same manner as towards a free person.

No. 24. *Answer of Mr. R. D. Luard, Acting Joint Magistrate, Sholapoor, dated 3d January, 1836, to Mr. R. Mills, Magistrate of Poona, enclosed in No. 23.*

The Records of my Office afford no information upon the subject of Slavery.

2. I myself had no experience whatever upon the points referred, and can, therefore, give no practical information which is, I should imagine, the only description required.

3. I have referred the case to the different Mamletdars, who all report that slavery has not existed in their districts since the British Government.

No. 25. *Answer of Mr. George Malcolm, Acting First Assistant Magistrate, dated 26th December, 1836, to Mr. R. Mills, Magistrate of Poona, enclosed in No. 23.*

2. As I have never had a case to decide between a slave and his master, and do not know of any precedent showing how such cases are in the habit of being disposed of by others, the following opinions are given with considerable diffidence.

3. I consider that slavery under the Bombay Presidency is only nominal, in as much as a slave, remaining in his master's house, depends on his own free will and pleasure. If a master was to solicit my interference in the case of a runaway slave, I should send a search for the slave, and when brought before me try and ascertain the following points. How far he had acted on the impulse of the moment; whether he had been seduced or not by the persuasions and bribes of others, and lastly if ill-treatment was the cause. I should be guided of course greatly by the result of this enquiry into the cause of his running away, but in general should try and persuade the slave to return to his master's house; yet if he was obstinate and refused I should not force him.

4. If a master was accused of having beat a slave boy, and should it appear to be the same kind of correction as a father might use towards a child, I should consider the master justified in so doing. But generally speaking the relation of master and slave does not justify any act which otherwise would be punishable, and I should extend exactly the same protection to slaves on complaints preferred by them of cruelty or hard usage by their masters as to any other claimants for justice

5. I am of opinion that there are no cases in which the Courts and Magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters. I should think that a slave had no right to claim for service instead of which he has claims on his master for clothing and subsistence,—this being almost the only difference between him and a servant, but that the Courts and Magistrates would admit and enforce any claim to property of a slave no matter who the defendant might be.

*Answer of Mr. H. P. Malet, Acting Second Assistant Magistrate, No. 26.  
Poona, dated 5th of January, 1836, to Mr. R. Mills, Magistrate  
of Poona, enclosed in No. 23.*

2. I have the honor to inform you that I never had a case before me as to the legal right of a master over his slave with regard to his person and property. In the absence of any specific regulations on this point, I should be guided by the opinion of the law officers of the caste or by that of persons conversant with the usages of the sect to which the case related.

3. I should see no reason for altering the law, which operates upon other persons, in regard to a slave complaining of hard usage or cruelty practised on him by his master.

4. I should afford the same protection to a slave against any other than his master, as to one against any other independent person.

5. I should not feel myself officially bound to enforce, or admit any claim to property, possession, or service from a master over his slave in any way, but would endeavour to induce the parties concerned to abide by the usages of their caste explained to them by persons acquainted with the same.

*Answer of Mr. H. E. Goldsmid, Assistant Magistrate at Kusba No. 27.  
Indapoor, dated 2d January, 1836, to the Magistrate of  
Poona, enclosed in No. 23.*

I beg to state that never having had complaints preferred before me by slaves against their masters, I am unable to speak from actual experience. But in event of a slave being ill-treated or abused, I should afford him as much protection as if he were a free-man,—no Regulation, of which I am aware, pointing out a contrary course. In event however of a person thinking that his property in the slave implied a power to ill use him, I should always permit his ignorance to plead in mitigation of punishment for a first offence.

With regard to the 3d\* paragraph of the letter from the Secretary to the Law Commission, I have only to observe that I cannot conceive a case in which a Magistrate would afford less protection to slaves than to free persons against other wrong-doers than their masters. Were a claimant to be Mussulman, Hindu, or of any other caste to prefer a claim to property, possession, or service of a slave I should, before passing a decision, request the instruction of my superiors.

No. 28. *Answer of Mr. R. D. Luard, Acting Joint Magistrate, Sholupoor, dated 3d January, 1836, to the Register of the Sudr Foujdaree Adawlut, Bombay.*

I have the honor to inform you that the records of this office afford no information upon the subject.

2. I myself have had no experience whatever upon the points referred, and can, therefore, give no practical information which is, I should imagine, the only description required.

3. I have referred the case to the different Mamletdars, who all report that slavery has not existed in their districts since the British Government.

No. 29. *Answer of Mr. H. A. Harrison, Magistrate of Ahmednuggur, dated 14th December, 1835, to the Acting Register Sudr Dewanee and Sudr Foujdaree Adawlut, Bombay.*

2. In reply, I beg you will acquaint the Judges that during the period I have acted as a Magistrate, I have never had occasion to consider what the legal rights of masters over their slaves are, with regard to their person and property. A question respecting these rights never having arisen, they have been exercised as heretofore without enquiry or interference on the part of the Magisterial authorities.

3. Cases to which the points noted in the 2d\* and 3d\* paragraphs refer never having been brought before the Magistrate, it remains to be determined what practice should be observed on each particular point.

4. Respecting the last \*subject of enquiry it would seem to be very doubtful what course should be pursued; and the instructions of the Judges would be required before the Magistrate ventured to act in such a case as that supposed by the Commissioners.

*Answer of Mr. W. S. Boyd, Magistrate, Khandesh, dated 18th February, 1836, to the Register of the Sudr Foujdaree Adawlut, Bombay.* No. 30.

2. In answer to the first\* question I should say that slaves legitimately acquired, previous to the promulgation of the Regulations of 1827, are considered in our Courts, in ordinary cases, as subject to the same rules which the usages of the country formerly prescribed. What I mean by "ordinary cases" is simply with regard to the right to profit by their sale or labour, that is to say, our Courts would sustain an action for the recovery of a slave or the price of one, provided neither cruelty, nor the insufficiency of the claim did justify the manumission of the individual, or the dismissal of the suit.

3. With regard to their property, there is no doubt, that the property of slaves dying without heirs is claimed by their owners. The property of slaves during their life-time was never taken from them unless in cases of bad behaviour; but of course when the person itself is the property of an individual, it appears but an empty privilege, the alleged right to hold property. I beg to be understood as speaking as a Magistrate not having for many years been employed in the Civil branch of the judicial line.

4. Since 1827 no slave can, agreeably to the Regulations, be sold without the sanction of the Magistrate, and the instances are so few in which that sanction will be applied for, that I consider the present Code as calculated to effect the total suppression of slavery. Only one application to purchase a slave has been made, since 1827, in this province; but as many have been manumitted on the irregularity of the sale being shewn. The feelings with which this traffic is received by the ruling power is so well known that its existence as a source of profit will soon, if it has not already, cease altogether.

5. With regard to the 2d\* query, I beg to state that I consider the right of a master, over his slave, to extend to a reasonable portion of labour, and that I would recognize the right of a master to chastise his slave only as far as I would that of a parent to punish his child, and that any assault or injury complained of by the slave, exceeding what I have described, would be listened to by me, as if no connexion whatever existed between the parties.

6. In answer to query 3d,\* a slave is in all respects equally protected with all members of the community whatsoever; and with regard to the latter part of the query, I should consider it the duty of the Courts to support just complaints of a Native-born-Christian or Jew against his slave, as well as that of either Musulman or Hindu. No European could, of course, possess a slave.

7. In conclusion, I beg to enclose an extract† from a report on this subject, by a very intelligent Assistant of my own, Mr. M. Larken; and I shall only add, in agreeing with that gentleman's remarks,—so little is domestic slavery a source of tyranny and oppression,—that in the course of six years I have been at the head of this province, I have myself only had three complaints.

8. Slaves for domestic purposes will now never be purchased in the Company's territories. The individuals who require and are permitted to purchase such costly additions to their establishments are all people of the better ranks; and too well aware of our strong prejudice against slavery in any shape, to make themselves individually prominent, by applying for a formal permission to do that, which, though not perhaps forbidden, they are conscious is disgusting.

\* See No. 1 of this Appendix.

† See No. 31 seq.



No. 31. *Extract of a Report from Mr. Metcalfe Larken, Assistant Magistrate, to the address of the Magistrate in the Province of Khandesh, dated 1st December, 1833, enclosed in No. 30.*

Para. 10. On the subject of domestic slavery I must premise that since the operation of the Regulations in this province sales of slaves have, of course, become of very rare occurrence owing to the various risks and insecurity attending all illegal transactions. Female slaves are, to a very great proportion, more numerous than males. The latter are always brought up from childhood in the house and with the family of the master; when they grow up they are treated rather as humble relatives than menial servants; and as the children are always purchased when very young the attachment existing between them and the members of their master's family, who have "grown with their growth" is any thing but unnatural or surprising. Their condition is not one to be lamented, and (as was said of the slaves of others) is far preferable to the condition of free citizens in many of other states.

11. Should a family fall into decay the opportunity is not seized by the slave to break this thralldom: but in almost every instance his conduct has appeared uniformly faithful, and he has clung to the fallen fortunes of his master's house, induced to do so not only from gratitude but from the feeling that his affections and home are theirs.

12. Nor is this feeling entirely unreciprocal. No person of respectability, though in straitened circumstances, will sell his slave. An act of this kind militates alike against public opinion and private inclination.

13. The number of female slaves, as I have observed, is far greater than that of the males. They too are bought when very young, and are brought up with the women of the family in domestic employments. There is no doubt, however, but that as they grow older, personal attractions are not without the effect of saving them from the more laborious parts of household drudgery. That their condition be enviable or otherwise must, of course, depend upon circumstances. It is sufficient here to remark that a complaint of ill treatment from either male or female slave is of the very rarest occurrence.

14. There is another kind of slavery which requires no illustration. I allude to the male and female slaves of dancing women. The most effectual way of recruiting a "Typha" was by purchasing children and educating them to the profession. This class of people, under the old Government, formed a constant market for the slave dealers; but since the country came into the Honorable Company's possession, for reasons before mentioned, the practise has obviously decreased, and it is now generally well known that no sale, under these circumstances, is legal. This abominable traffic will rapidly cease altogether.

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*Answer of Mr. John A. Dunlop, Acting Principal Collector and  
Magistrate, Belgaum, dated 19th March, 1836, to the Acting  
Register to the Court of Sudr Dewanee and Sudr Foujdaree  
Adawlut, Bombay.*

No. 32.

2. The only cases that appear to have been brought before the Magistrate were as follows, from the Chuckores Talooka;—where it was discovered that seven female children had been purchased by dancing women for the purpose of bringing them up to their degrading profession, but the purchases were found to have been made before that district was subjected to our Regulations,—so that the purchasers could not be punished, but the sale was declared illegal, and the slaves were set at liberty; though it may be doubtful if all of them availed themselves of their freedom to quit their mistresses.

3. There was also one case of the purchase of a girl by a dancing girl or prostitute. All the parties concerned in which, to the number of ten, were committed, tried and condemned to various degrees of punishment: but it appeared on the trial that they were ignorant of the criminality of their act, and means were consequently taken to publish the law more generally; which, I trust, have been successful.

4. Domestic slavery prevails very extensively in the respectable families of this Zillah, and among the petty States and Jageerdars under the Political Agent, more especially among the Marathas, who have few other domestic servants.

5. These are principally females who perform the domestic drudgery of cleaning, plastering (with cow dung) their floors and houses, grinding grain, carrying water, etc., and were formerly obtained, sometimes by purchase, but more commonly by condemnation to this state, for various offences, to which the prospect of benefiting by their services offered strong temptations.

6. It has not unfrequently happened that these persons have fled from their owners, or more properly masters, generally in consequence of real or fancied ill-treatment. These persons have not been compelled to return, but a mutual agreement generally recommended which both parties are usually well disposed to, for the sake of obtaining their services on one side, and on the other to secure at once a home and provision for old age.

7. The progeny of these slaves continue nominally in the same state, but are generally the most trusted and best treated of dependents, and from the general knowledge that slavery has been abolished by Government, being spread over the country, I am of opinion that any treatment sufficiently severe, to induce slaves to forego the benefits of their situations and to break the other ties that bind them to their master's service, would be followed by desertion, and unless persuaded to return of their own free will there is now no means of compelling service, so that it seems in this respect to be placed on the best footing for both parties, and scarcely deserves the name of slavery.

8. The sources from which slaves used to be obtained, are now entirely closed, and, therefore, the class of domestic slaves must in a great measure die out with the present generation: and unfortunately the class of persons able to afford the luxury within our own territories, seem destined to an almost equally speedy extinction, the majority of both are, therefore, likely to escape from the operation of any law, that could now be made on the subject.

9. The sale of females for prostitution, the most likely to continue, is already sufficiently provided against by our laws.

10. I am not aware of any distinction being ever made between slaves and free persons when brought before Magistrates. Both would be equally listened to as witnesses or complainants: and both would have the same measure of punishment dealt to them for offences: and, with the exceptions allowed by the XXX, XXXI and XXXII Sections of Regulation XIV. of 1827, both would be perfectly upon a par.

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## APPENDIX XVII.

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### GUICOWAR'S APPLICATION.

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#### *Magisterial power of Surrendering Slaves.*

- No. 1. Translation of a yad from His Highness the Guicowar to the Political Commissioner, dated 6th Zilkad 1238, A. D. 2d February, 1838.
- No. 2. Letter from Mr. R. H. Arbuthnot, Joint Magistrate, Pimpre, to the Magistrate of Ahmednugger, dated 2d March, 1838.
- No. 3. Letter from Mr. H. A. Harrison, Magistrate, Ahmednugur, to the Secretary to the Government of Bombay, Judicial Department, dated 8th March, 1838.
- No. 4. Translation of a yad from His Highness the Guicowar, 17th Zihaj, A. D. 14th March, 1838.
- No. 5. Minute by the Right Honorable the Governor of Bombay, dated 8th April, 1838.
- No. 6. Minute by the Honorable Mr. Farish, dated 10th April, 1838.
- No. 7. Idem by the Honorable Mr. Anderson, dated 11th April, 1838.
- No. 8. Idem by the Right Honorable the Governor of Bombay, subscribed to by the Honorable Mr. Farish, dated 16th April, 1838.
- No. 9. Minute by the Honorable Mr. Anderson, dated 17th April, 1838.
- No. 10. Minute by the Right Honorable the Governor of Bombay, dated 1st May, 1838.
- No. 11. Minute by the Honorable Mr. Farish, dated 2d May, 1838.
- No. 12. Minute by the Honorable Mr. Anderson, dated 3d May, 1838.
- No. 13. Translation of a yad from His Highness, dated 4th Suffer, A. D. 29th April, 1838.
- No. 14. From the Political Commissioner and Resident, Baroda, to the Secretary to the Government of Bombay, dated 2d May, 1838.
- No. 15. From Idem to Idem, dated 2d April, 1838.
- No. 16. From Mr. W. B. Salmon, Acting Superintendent of Police, Poona, to the Political Commissioner and Resident, Baroda, dated 21st March, 1838.
- No. 17. Minute by the Right Honorable the Governor of Bombay, dated 21st April, 1838.
- No. 18. Minute by the Honorable Mr. Farish, dated 21st April, 1838.
- No. 19. Minute by the Honorable Mr. Anderson, dated 23d April, 1838.
- No. 20. Minute by the Right Honorable the Governor of Bombay subscribed to by the Board, dated 30th April, 1838.

- No. 21. Letter from the Secretary to the Government of Bombay to the Political Commissioner for Guzerat, dated 18th May, 1838.
  - No. 22. Letter from Mr. James Erskine, Political Agent in Katteewar, to Mr. J. P. Willoughby, Secretary to the Government of Bombay, dated 31st December, 1837.
  - No. 23. Deposition of Seedee Moobaruck, Rajcote, dated 15th Sept. 1837.
  - No. 24. Minute by the Right Honorable the Governor of Bombay, dated 26th January, 1838.
  - No. 25. Minute by the Honorable Mr. Farish, dated 27th January, 1838.
  - No. 26. Minute by the Right Honorable the Governor of Bombay, dated 2d February, 1838.
  - No. 27. Minute by the Honorable Mr. Farish, dated 3d February, 1838.
  - No. 28. From the Secretary to the Government of Bombay to the First Assistant Political Agent in charge, Katteewar, dated 10th February, 1838.
  - No. 29. From Mr. James Erskine, Political Agent, Katteewar, to the former, dated 24th March, 1838.
  - No. 30. From the First Assistant Political Agent in charge, Dhorajee, to Colonel Pottinger, Resident in Cutch, dated 26th Feb. 1838.
  - No. 31. From the latter to the former, dated 19th March, 1838.
  - No. 32. From the Secretary to the Government of Bombay to the Political Agent, Katteewar, dated 9th June, 1838.
  - No. 33. From Idem to the Accountant General, dated 9th June, 1838.
  - No. 34. Letter from the Officiating Secretary to the Government, Judicial Department, to the Secretary to the Government of Bengal, dated 24th September, 1838.
  - No. 35. Letter from the Register of the Sudr Dewanny and Nizamut Adawlut, Fort William, to the Secretary to the Government of Bengal in the Judicial Department, dated 9th November, 1838.
  - No. 36. From the Acting Chief Secretary to the Government of Bombay to the Secretary to the Right Honorable the Governor General of India, Camp, dated 12th September, 1838.
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## A P P E N D I X XVII.

*Translation of a yad from His Highness the Guicowar to the Political Commissioner, dated 6th Zilkad, 1238, A. D. 2d February, 1838.* No. 1.

My daughter Eshada Bae Ghoorporee on her return from Poona to Baroda remained for a short time at Nassick. There, two female slaves, of her's, named Dhoondee and Parvattee, ran away from her service. These two were, in the presence of Mahadar Rao Sheraboode, given over to the Company's Officer at Nassick. This Sirkar is about to send Guberjee Sepoy to Nassick to bring them back. Let a letter ordering them to be given to Guberjee be immediately written to the gentleman at Nassick and send to me for transmission.

*From Mr. R. H. Arbuthnot, Joint Magistrate, Poonpree, to the Magistrate of Ahmednuggur, dated 2d March, 1838.* No. 2.

The Resident of Baroda having transmitted a yad from His Highness the Guicowar, requesting that two female slaves who had accompanied his daughter Eshada Bae Ghoorporee, from Poona to Nassick, and had there left her, may be made over to a person sent by him to receive them,—I beg you will do me the favor to represent to the Right Hon'ble the Governor in Council that both women object to proceed to Baroda along with the person sent for them, and that I have to request his instructions regarding the disposal of them under Section V. Regulation XI. of 1827.

2. One of the women, by name Dhoondee, states she accompanied Eshada Bae from Baroda on her journey to Poona about a year ago and remained with her there, but subsequently left her at Nassick on her return to Gujerat in consequence of ill-treatment.

3. The other by name Parvattee declares she is an inhabitant of Poona and has never been in Gujerat. She took service with Eshada Bae at Poona and left her at Nassick from the same reason.

- No. 3. *From Mr. H. A. Harrison, Magistrate, Dongurganon, to the Secretary to Government of Bombay, dated 8th March, 1838.*

I have the honor to transmit copy of a letter from the Joint Magistrate of Nassick, dated the 2d instant, requesting the instructions of Government under Section V. Regulation XI. of 1827, respecting two female slaves, the delivery of whom has been demanded by His Highness the Guicowar, and request you will favor me with the instructions of Government for the guidance of the Joint Magistrate.

- No. 4. *Translation of a yad from His Highness the Guicowar, dated 17th Zihaj A. D. 14th March, 1838.*

(After recapitulating the former yad)—The letter sent by you was forwarded by the hand of Gubbajee Sepoy to the gentleman at Nassick, but he raising objections about their consent or non-consent has not, up to this time, given up the slave girls to Gubbajee. The slaves of this Sirkar have run away, and notwithstanding that they are actually in the possession of the gentleman at Nassick, he raises objections to giving them back. Let another letter, therefore, be written to that gentleman directing him to give them up immediately without any further objections, to Gubbajee Sepoy.

- No. 5. *Minute by the Right Hon'ble the Governor of Bombay, dated 8th April, 1838.*

There is a good deal of difficulty in dealing with cases like this on principle.

Slavery however is not unlawful here. Nor do I find that the Regulations forbid the export of slaves for the purpose of sale or prostitution. Therefore, I am not aware that the Guicowar calls on us to any thing illegal, or to any thing so palpably *contra bonos mores*, as to be for that reason out of the question.

The slaves however plead ill-treatment as the cause of their having deserted their mistress. In an ordinary case, I think, this would impose on us the duty and confer on us the right of enquiring into the truth of such plea and to resist the demand if the plea were established. But the high rank of the mistress seems to me to preclude our taking that course and, under all the circumstances, I am inclined to say that we should redeem these slaves.

If this view is concurred in, we must call on the Collector to state, as well as he can, the price of each. Possibly the sum given by the Guicowar lady for the Poona girl may be ascertained, and it is even possible that the slaves may have relations willing to redeem her. This should be enquired into, and to save time, the Collector might be authorized to communicate directly with the Poona authorities.

The Collector should transmit to us such information as he can get and also a translation of the Guicowar's yad, 8th April.

*Minute by the Honorable Mr. Farish, dated 10th April, 1838.* No. 6.

In a recent case in Kattcewar the redemption of a runaway slave on the ground of ill-treatment was sanctioned, and there are perhaps stronger grounds in the present case for the same course. To avoid the embarrassment of not surrendering them it seems the best course, and I concur in this as a special case.

*Minute by the Honorable Mr. Anderson, dated 11th April, 1838.* No. 7.

I think there are great objections to either course.

*Minute by the Right Honorable the Governor of Bombay, subscribed to by the Honorable Mr. Farish, dated 16th April, 1838.* No. 8

I have nothing better to propose than the course stated in my Minute of the 8th instant.

*Minute by the Honorable Mr. Anderson, dated 17th April, 1838.* No. 9.

Is there an obligation to give up the slaves? If such obligation exist it must be complied with. I do not see how it is met or got over by redeeming the slaves. If there is not the obligation then, I conceive, we must leave them alone to do as they please.

*Minute by the Right Honorable the Governor of Bombay, dated 1st May, 1838.* No. 10.

I trust I shall not be thought to act disrespectfully towards the Board, if I do not prolong discussion in cases when the measures I take the liberty of proposing are objected to,—but without any one specific proposition being made on the other side. I am aware that the case is a difficult one, and think it probable that a better adviser might devise some better mode of dealing with it than I have done: but none such has occurred to me.



No. 11. *Minute by the Hon'ble Mr. Farish, dated 2d May.*

I refer to my first Minute of the 10th April.

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No. 12. *Minute by the Hon'ble Mr. Anderson, dated 3d May, 1838.*

1. I quite regret to have given so much trouble to the Right Hon'ble the Governor. My object was not to prolong discussion, but that the determination the Board might come to should be correct. The proposed course appearing to me doubtful, I so stated it, with an impression in my own mind at the same time, that the subject would then form a matter to be brought up at the Council Board, when after being considered, it could be disposed of.

2. I may be wrong in imagining this,—the usual mode in which the Board would act in such a case. But I claim some indulgence, in not yet being quite aware of the usual mode in which business is transacted.

3. Upon the question itself, I would beg to refer to a Minute I wrote a few days ago on a case of slaves being claimed. The present case differs in the demand being made by His Highness the Guicowar: but in other respects, as far as relates to the practice of our Magistrates on claims for delivering up slaves, it is the same.

The question I put in my last Minute on the present reference is this. What is the obligation we are under to give up the slaves? If it is by any article of the treaty let it be shewn, and then if the treaty imposes the obligation it must be complied with.

In regard to the course of redeeming the slaves I do not think it an expedient course. It is not one that would be liked or be assented to by His Highness I should imagine; and if the treaty does not oblige us to cause the return of the slaves it is not necessary.

Before too it could be done, I imagine, the expenditure must be confirmed by the Government of India.

As it is a political question and one of some general importance, it might possibly be wise to refer it to the Government of India to know how such a case would be dealt by the Magistrate there on a similar demand by any foreign prince with whom we are in alliance. I hope I shall not be here thought as desiring to prolong discussion, but simply to do what is right, that the best conclusion may be come to.

*Translation of a yad from His Highness, dated 4th Suffer, A. D. No. 13.  
29th April, 1838.*

(After recapitulating the foregoing) Notwithstanding my application for another letter to Nassick, the slave girls have not been as yet given up. Let another letter therefore be given to me on that gentleman according to the yad of the 17th Zihaj, (14th March 1838); for this Sirkar's people have been detained three months at Nassick. Let a letter be written directing that immediately on its receipt the slave girls be given up.

(True Translation,)

(Signed) W. COURTNEY, 2d Asst. Pol. Comr.

(True Copies,)

(Signed) L. R. REID, Actg. Chief Secy. to Govt.

*From the Political Commissioner and Resident, Baroda, to the Secretary to Government of Bombay, dated 2d May, 1838. No. 14.*

I request you will do me the favor to represent to the Right Hon'ble the Governor in Council that His Highness the Guicowar is much dissatisfied at two female slaves of his daughter's having run away from her service, and that although placed under the surveillance of the Joint Magistrate of Nassick, is unable to recover them.

2. I received a communication from His Highness on the 2d February last, and sent a copy of it to the Joint Magistrate of Nassick on the 6th through His Highness's people.

3. On the 14th of March a second note was received, stating that the Authority at Nassick allowing objections to be raised of the slaves being unwilling to return had not surrendered them, and again desired my interference. Consequently, on the 19th of that month, I forwarded a copy of the note to the Joint Magistrate, but to neither of these representations have I been favored with any reply. I have been unable therefore to give any satisfactory explanation to His Highness of the reasons that have prevented ready compliance with his wishes.

4. As His Highness now complains of the detention of his people at Nassick, I have no resource left than to address the Right Honorable the Governor in Council, requesting that speedy measures be taken to remove the molestation and the slave girls be given up.

5. Natives of this country are tenacious of all matters connected with domestic arrangement; and as the high personage in question is dissatisfied, I am led to hope that a satisfactory disposal of the subject may soon take place.

6. I myself can offer no opinion on the reason for delay,—not having been informed of any legal impediment to the delivery of the females. But adopting the facts, as stated in His Highness's notes to me, I should think that as domestic slavery is permitted by universal custom among natives of India and the laws of the

Hindoos, which have never been abrogated by any legislative enactment in England or India, there can be no valid objections to mete out justice to His Highness on this occasion: for I cannot persuade myself the Right Honorable the Governor in Council would countenance the operation of private notions of right and wrong in supersession of written law by which alone a Magistrate should be guided in the discharge of his official duties.

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No. 15. *From the Political Commissioner and Resident, Baroda, to the Secretary to Government of Bombay, dated 2d April, 1838.*

1. I have the honor to request you will submit the subject of this address for the consideration of the Right Hon'ble the Governor in Council, that instruction may be issued placing the matter to which it relates on a proper footing.

2. A person at Baroda went to Poona accompanied by a male slave belonging to his father. This slave left him without permission and would not return after every proper endeavour had been used on the spot. The father applied to me to afford him assistance. In consequence I addressed a letter to the Superintendent of Bazars at Poona, requesting his aid to obtain restoration,—but without any proper effect, as will be seen from his reply which I submit with this letter. In his reply, he asserts that no power is vested in him by which he can in any way interfere or enforce his return.

3. By this denial of justice the master of the slave is injured in his property, and I should think the Superintendent is not justified in acting as he has done: for he possesses the same powers within Military limits that a Zillah Magistrate does within his jurisdiction under general Regulations.

4. On the introduction of our rule we found slavery to exist, sanctioned by the laws of the country; and in India there has been no legislative enactment doing away with slavery or making any distinction on the relative positions in which master and slave stand to each other. In fact the property of the owner in a slave is as much respected by the constitution at this present time as it ever was.

5. The only enactment touching slavery is entirely distinct from this case and pertains to the purchase and sale of slaves.

6. Magistrates restore runaway slaves. Indeed they are bound to yield their aid in so doing in the same way as in cases of master and servant, or in matters connected with the forcible detention of property while there is no law, rule or recognised custom to the contrary that I am aware of.

7. Mr. Salmon is not singular in the opinion he has given: for many have erroneously acted on the same principle emanating, I believe, from emancipation of slavery elsewhere by the British Parliament, but which does not extend to domestic slavery in India: and as Judicial and Magisterial officers are bound to administer the laws, they should regard those only that are prescribed for their guidance.

*From Mr. W. B. Salmon, Acting Superintendent of Police, Poona, No. 16.*  
*to the Political Commissioner and Resident, Baroda, dated 21st*  
*March, 1838.*

1. In answer to your communication No. 101, dated 14th February 1838, received through Shaik Umeerooden, I beg to inform you that the slave alluded to is not detained here by me, but is at present residing in the Sudr Bazar and objects to return to his master.

2. I beg further to state for your information that there is no power vested in the Superintendent of Police by which he can in any way interfere or enforce his return.

*Minute by the Right Honorable the Governor of Bombay, dated No. 17.*  
*21st April, 1838.*

1. There seem to me to be considerable difficulties in this case, though I quite agree with Mr. Sutherland that we are not to apply to it European standards of law or feeling. The *status* of domestic slavery is, in this country, a legitimate one, and while it subsists there are obligations arising out of it which none can be justified in violating, and which the Magistrate is on no occasion bound to enforce.

2. In the present instance a foreigner travelled into the Bombay territories accompanied by a slave who refused to attend him back on his departure. On that refusal taking place the master might undoubtedly have applied to the Magistrate, who would, I presume, have summoned the slave and called on the master to prove his title. I see nothing in the regulations as to the nature of the proof required, and know not the practice: but I do suppose that the alleged slave would have been allowed a sufficient "*locus standi*" in the Magistrate's Court to dispute the claimant's title either on the ground,—that he was not his slave,—or that having been such, the relation had, by subsequent consent or some other cause, been dissolved,—or at all events that the master by cruel treatment forfeited his right to enforce it.

3. All this would have been matter of regular enquiry and adjudication, the parties being confronted and the witnesses being examined on oath in open Court; and the decision would, I presume, have been examinable by a higher judicature.

4. It seems to me a very different case when a person residing at Baroda claims to be the master of a person residing in the heart of the Bombay territories, and through the British Resident calls on the local Bombay Magistrate to seize the person so claimed and to deliver him up to the foreign master. The title here is made out, if made out at all before an officer who has, properly speaking, no judicial powers, and by an *exparte* proceeding in the absence of the party who is to be so deeply affected by it, and it is to be enforced if at all by the local Magistrate on a mere intimation of it by letter without going through any part of that Judicial process which is necessary in all other cases of property claimed by a suit at law, and to which the master must have submitted had he preferred his claim personally, and without affording to the alleged slave any opportunity of appealing against the decision if unjust.

5. There can be no doubt that a foreigner may sue in our Courts of Civil Justice for the restitution of property unjustly withheld from him : but there he must, I apprehend, proceed in one of two ways. He must appear before the Court either personally or by an attorney lawfully constituted, and in either case he must establish his claim by sworn proofs subjected to strict examination in the presence and on the part of the resisting party, and involving the penalties of perjury if found to be false.

6. I see not why the same principle does not hold in such an instance as the present. It would undoubtedly hold, I presume, if the property claimed were of any other kind. Let us suppose this Baroda inhabitant to inform the British Resident that there was a horse or a bale of goods in the possession of a person at Poona, which such person refused to give up and then let us suppose the Resident to write to the Magistrate of Poona assuring him that he (the Resident) had satisfied himself of the justice of the claim, and therefore requested the Magistrate to seize such horse or bale of goods, and forthwith to send it by a careful person to Baroda. Would any Magistrate listen to such an application? Or could he be censured for not listening to it? Yet it cannot be conceived that less care or ceremony is necessary when the property claimed is the person of human beings.

7. There is another class of cases which may be referred to in the present occasion. A foreign subject accused of crimes or suspected of machinations against the State to which he belongs, flies into our territory, and being reclaimed through the British Resident at that State is given up by order of this Government. This, however, is confined in the cases of persons suspected of being criminals or traitors, and even in such cases a compliance with the demand is by no means a matter of course. It must be an act of the Government done either on solemn consideration of the particular circumstances, or in fulfilment of some stipulation in a treaty which presupposes such consideration to have been given to the subject generally. No Magistrate would give effect to such a demand, except under orders general or particular from his Government. Nor would any Government exercise on light grounds a power which implies,—I would not say vigor beyond the law,—but certainly a supersession of the ordinary forms of Judicial procedure.

8. How far the case of *fugitive slave* would fall within the class just described I will not attempt to determine. It certainly would fall within that class if the fugitive were suspected of,—having robbed his master,—or of some, other crime : and possibly the very fact of his flight might be thought to afford *prima facie* ground for such suspicion. But to apply the rule where no crime is alleged or pretended to have been committed would, as it appears to me, be a very hard proceeding. I know that in our slave colonies the simple refusal of a slave to follow his master, would have subjected him to be handled very roughly : and this is, I conceive, still the case in several of the United States of America : but I am not prepared to act on those trans-atlantic precedents in this country.

9. The Board will judge whether or not the above remarks sustain the proposition with which I set out, namely, that the question before us is one of difficulty. I am however, in the present instance, peculiarly averse to proceed in a summary way, because the master, or at least the person whom the proper master allowed and directed the slave to attend as such, had the full opportunity of preferring his claim in the regular manner before the Magistrate of Poona or before the Superintendent of Bazzars, and as far as appears, voluntarily pretermitted such opportunity. He was at Poona when the slave

refused to follow him. Why did he not at once summon him before the Magistrate or the Superintendent of Bazars? For any thing that appears he felt that he could not prove or could not press his title. Perhaps he had discharged the slave—perhaps he had treated him cruelly; and all this would have appeared had he gone before the Magistrate. He therefore abstains from so inconvenient a course, assured that on his return to Baroda a short application to the Resident will set all to rights and restore him the slave in spite of all resistance.

10. On a recent occasion when the daughter of the Guicowar preferred a claim nearly similar to the present, I was willing to evade the difficulty by redeeming the two slaves demanded. Her rank seemed to me to render that course inconvenient, as it was both advisable and practicable. But it is planning a course to be followed only under special circumstances. In this instance we must face the difficulty, and, as at present advised I should be apt to say that the claimant if desirous of recovering his slave, must proceed either as an inhabitant of Poona would have to proceed in a like case, or if he chooses to remain at Baroda, as any other person residing out of the British jurisdiction, must proceed for the recovery of any other property. How far it is open to him to appear before the Magistrate by Attorney, or what are the precise steps he should take, I am quite unable to say; but I do not think that, in the form in which the demand comes to us, it can be complied with. I quite agree with Mr. Sutherland that justice should be done; but, what is asked could not, I think, be granted without injustice to another party.

11. After all, however, I mean here to state doubts rather than opinions, and I beg the advice of my Colleagues. Mr. Anderson's knowledge and experience peculiarly qualify him to speak on the subject, and I shall feel greatly obliged by his giving it attention. I am told that several instances have occurred of a compliance with requisitions like the present; but, I should not be apt to follow such examples, unless they can be supported by better reasons than I have been able to imagine. Precedent cannot sanctify injustice; and, without making any parade of anti-servile principle, or wishing to apply them to cases to which they do not belong, I certainly think that we ought to be cautious of acting on light grounds or loose authority, in any matter affecting the personal liberty of mankind.

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*Minute by the Honorable Mr. Farish, dated 21st April, 1838.*

The course pointed out by the Right Honorable the Governor appears to me that which would be proper. Mr. Anderson's experience will, however, be more valuable than my opinion.

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No. 19. *Minute by the Honorable Mr. Anderson, dated 23d April, 1838.*

However right Mr. Sutherland's opinion may be upon the general question of slavery in this country, he was clearly wrong in conceiving, that he had authority as Resident at Baroda to require a Magistrate at Poona to apprehend or give up a slave claimed by an individual at Baroda. His experience will, I think, have furnished him with no precedent for this.

But the question is even more doubtful than this. It is doubtful if the Magistrate on the application of the owner himself could compel the slave to return.

I say it is doubtful, because upon no question have the authorities in India given more opposite opinions than on this,—the duties required of Magistrates in respect to slaves. I state this from the documents I saw when in the Law Commission.

The subject was amply discussed and we had before us the written opinions of every authority in India, except, by the way, the Sudder Adawlut of Bombay. The note of the Law Commission on the chapter of Exceptions, page 22, fully shews the result.

*Sic in orgl* If the Right Honorable the Governor and Mr. Farish will for a moment turn to that individual\* they will at once see in how great a state of uncertainty the law at present stands throughout India.

That is, what is the power of master over his slave? What the authority and practice of the Magistrates in cases respecting slaves coming before them.

In respect to the immediate question before the Government, I beg to point out that the Bombay Code in its criminal branch no where excepted the slave from protection. It no where says, that if the slave be assaulted, that the person assaulting be he his master or any other shall be exempt from punishment. It no where says that if the slave is restrained that he shall not be released. It no where says that if the slave refuses to return to the master that the Magistrate shall cause him to return.

The law, our authorities administer, thus leaves the subject undefined, untouched: hence the Magistrates act upon their discretion, hence the diversity of opinion that is found to prevail.

There is no difficulty in shewing Mr. Sutherland the great uncertainty of the law. There is no difficulty in shewing him that he had not the power to require the Magistrate to apprehend the slave. But there is difficulty in telling the master, that if he wishes the Magistrate to interfere that he must proceed to Poona, and yet that it is uncertain if the Magistrate will interfere when he gets there. It may be difficult, but I declare that I know no other course.

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No. 20. *Minute by the Right Hon'ble the Governor of Bombay subscribed to by the Board, dated 30th April, 1838.*

I am glad to find that Mr. Anderson, in his Minute of the 23d instant, confirms me as to the only course of proceeding open to the claimant, and differs, from me, only in thinking it very doubtful, whether even, that course will succeed. I subscribe to his observations on that point and indeed on all others. Mr. Sutherland should be informed of our views, and should be left to communicate so much of them as he may think proper to the party concerned, informing him at the same time, that he has no method of recovering his alleged slave but by regularly proving his claim before the Local Magistrate.

*From the Secretary to Government of Bombay to the Political Commissioner for Guzerat, dated 18th May, 1838.* No. 21.

I am directed to acknowledge the receipt of your letter, dated the 2d ultimo, No. 245, representing the non-compliance with your requisition by the Superintendent of Bazars at Poonah to deliver up a slave (the property of a Guicowar subject) who had taken refuge at that place, and in reply to communicate to you the following observations and instructions.

2. It appears to the Right Hon'ble the Governor in Council that there are considerable difficulties in this case: but Government quite concur in your opinion that we are not to apply to it European standard of law or feeling. The *status* of domestic slavery is in this country a legitimate one, and while it subsists, there are obligations arising out of it, which none can be justified in violating, and which the Magistrate is on occasion bound to enforce.

3. In the present instance, a foreigner travelled into the Bombay territories, accompanied by a slave, who refused to attend him back on his departure. On that refusal taking place, the master might undoubtedly have applied to the Magistrate who would, it is presumed, have summoned the slave and called on the master to prove his title. The regulations are silent as to the nature of the proof required: but it is to be inferred that the alleged slave would have been allowed a sufficient "*locus standi*" in the Magistrate's Court to dispute the claimant's title either on the ground that he was not his slave, or that having been such the relation had by subsequent consent or some other course been dissolved, or at all events, that the master had by cruel treatment forfeited his right to enforce it.

4. All these would have been matters of regular enquiry and adjudication, the parties being confronted and the witnesses being examined on oath in open Court, the decision being examinable by a higher judicature.

5. It appears to the Governor in Council a very different case when a person residing at Baroda claims to be the master of a person residing in the heart of the Bombay territories, and through the British Resident calls on the Bombay Local Magistrate to seize the person so claimed and to deliver him up to the foreign master. The title here is made out, if made out at all, before an officer who has, properly speaking, no judicial powers, and by an *ex parte* proceeding in the absence of the party who is to be so deeply affected by it, and it is to be enforced, if at all, by the local Magistrate, on a mere intimation of it by letter, without going through any part of that judicial process, which is necessary in all other cases of property claimed by a suit at law, and to which the master must have submitted, had he preferred his claim personally and without affording to the alleged slave any opportunity of appealing against the decision, if unjust.

6. There can be no doubt that a foreigner may sue in our Courts of Civil justice for the restitution of property unjustly withheld from him, but then he must proceed in one of two ways. He must appear before the Court either personally or by an Attorney lawfully constituted, and in either case he must establish his claim by sworn proofs, subjected to strict examination in the presence, and on the part of the resisting party, and involving the penalties of perjury if found to be false.

7. Government do not see why the same principle does not hold in such an instance as the present. It would undoubtedly hold if the property claimed were of any other kind. For the sake of example let it be supposed this Baroda inhabitant informing the British Resident, that there was a horse or any article of



merchandize in the possession of a person at Poona, which such person refused to give up, and then let it be supposed the Resident writing to the Magistrate of Poona, assuring him that he (the Resident) has satisfied himself of the justice of the claim, and therefore requesting the Magistrate to seize such horse or merchandize, and forthwith to send it by a careful person to Baroda. It is clear that no Magistrate could comply with such an application,—yet it cannot be conceived that less care or ceremony is necessary when the property claimed is the person of a human being.

8. There is another class of cases, which may be instanced as applicable to the present subject. A foreign subject accused of crimes or suspected of machinations against the State to which he belongs, flies into our territory, and being restrained through the British Resident at that State, is given up by order of this Government. This however is confined to the cases of persons suspected of being criminals or traitors, and even in such cases a compliance with the demand is by no means a matter of course. It must be an act of the Government done either on solemn consideration of the particular circumstances, or in fulfilment of some stipulation in a treaty which pre-supposes such consideration to have been given to the subject generally. No Magistrate would give effect to such a demand, except under orders general or particular from his Government, nor would any Government exercise on light grounds a power, which implies a supersession of the ordinary forms of judicial procedure.

9. How far the case of a fugitive slave would fall within the class just described, it is difficult to determine. It certainly would fall within that class if the fugitive were suspected of having robbed his master, or of some other crime, and possibly the very fact of the flight might be thought to afford *prima facie* ground for such suspicion. But to apply the rule where no crime is alleged or pretended to have been committed would be a very harsh proceeding.

10. Under the above exposition I am desired to remark that however right your opinion on this subject may be upon the general question of slavery in this country, you labor under an error in conceiving that you possessed authority as “Resident at Baroda” to require a “Magistrate at Poona” to apprehend or give up a slave claimed by an individual at Baroda.

11. But the question appears to Government even more doubtful than this. It is doubtful if the Magistrate on the application of the owner himself could have compelled the slave to return to his master.

12. It is here worthy of remark that the Bombay Code in its Criminal Branch no where excepts a slave from protection. It no where says that if the slave be assaulted, that the individual assaulting, be he his master or any other person, shall be exempt from punishment. It no where says that if the slave is restrained, he shall not be released, nor is it any where laid down that if the slave refuses to return to his master the Magistrate shall cause him to return.

13. Upon no point is the law more undefined and consequently more uncertain, than on the subject of slavery in India, and upon no question have the law authorities in India given more diversified opinion than of the duties required of Magistrates in respect of slaves.

14. In consequence of the peculiar difficulties attending this question, Government feel averse to proceed in a summary way. It appears that the master, or at least the person whom the proper master allowed and directed the slave to attend as such, had the full opportunity of preferring his claim in the regular

manner before the Magistrate of Poona, or before the Superintendent of Bazars, and as far as appears, voluntarily pretermitted such opportunity. He was at Poona, when the slave refused to follow him, and it cannot but be regarded as singular, that he did not at once summon him before the Magistrate or the Superintendent of Bazars. It is therefore inferrible, that he felt, that he could not prove, or could not press his title. Perhaps he had discharged the slave—perhaps he had treated him cruelly: and all this would have appeared, had he gone before the Magistrate. He therefore abstained from so inconvenient a course, assured in his own mind that on his return to Baroda a short application to the British Authority there, would set all to rights and restore him the slave, in spite of all resistance.

15. In conclusion I am directed to inform you that Government leave it to your discretion to communicate so much of the views of Government on this subject to the party concerned, as you may deem expedient, intimating to him at the same time that he possesses, no method of recovering his alleged slave, but by regularly proving his claim before the local Magistrate.

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*From Mr. James Erskine, Political Agent in Katteewar, to Mr. J. P. Willoughby, Secretary to Government of Bombay, dated 31st December, 1837.*

1. I have the honor to solicit the instructions of the Right Honorable the Governor in Council in the case of an African slave: who—escaped from his master,—a Scindian of Wagar,—has sought my protection,—but is now claimed by his owner.

2. Annexed is the deposition of the poor unfortunate, as also an account of the condition in which he presented himself at Rajcote when he first came in. His owner demands his restoration, or if that is not permitted, the price which he paid for him. Considering that the lad was not imported by him but purchased from another Scindian who was not the importer also,—I believe Government will decide on obtaining his freedom by the payment of the purchase money: for this reason I have retained the slave under my protection, and informed his owner that the orders of Government have been applied for, on the matter.

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No. 1.

*Rajcote, dated 15th September, 1837.*

No. 23.

Deposition of Seedee Moobaruck, (does not know his father's name) of the Moobaruck caste, originally inhabitant of Africa, lately that of a Ness of Scindians about four miles from Shikarpoor, in the Kutch jurisdiction, aged about seventeen years, taken before James Erskine, Esq. Political Agent in Katteewar.

I was first brought from my country to Muskat. I can't recollect when, but remained there for many years. After this I was brought to Mandwee from Arabia,

by an Arab named Daibman, about five years ago, who sold me to a Scindian named Munnace,—I dont know for how much—who kept me for about three days, and then sold me to another Scindian named Kessar of the Ness above mentioned : I have no knowledge for how much.

*Cross questioned.*

I was brought to Mandwee with nine other African slaves, six males and three females. My comrades were sold to different people in Mandwee. I served my late master with fidelity, but was ill treated, starved and severely beaten; and therefore, being unable to suffer such bad treatment, I effected my escape and came to Rajcote. I am quite comfortable where I am, and would not like to go any where until I am turned off.

No. 2.

An African lad, of about sixteen or seventeen years of age, was brought to me about three or four days before I started to Ballachree. He was in rags and bruised all over his body, as he had been severely beaten by his owner, a Scindian of Hukarpoor, who had brought him at Mandwee about four years ago. Seeing the poor boy in such a state, I was moved with compassion and gave him clothes, food, and cured him by applying ointment, &c.; at the same time I assured him that he was entirely at liberty and in a state of freedom, and that he should consider himself emancipated, since he fell under the protection of the Political Agent at Rajcote.

(Signed) LOOTFALLEE KHAN, *Moonshee.*

(A true Translation and Copy)

(Signed) JAMES ERSKINE, *Political Agent.*

POLITICAL AGENT'S OFFICE.

No. 24. *Minute by the Right Honorable the Governor of Bombay, dated 26th January, 1838.*

I think the owner of this unfortunate youth should, as a special case, be paid by Government the price for which he was purchased.

But before sanctioning this, Mr. Erskine, without informing the owner of our intentions, should ascertain from him what was the amount of the purchase.

No. 25. *Minute by the Honorable Mr. Farish, dated 27th January, 1838.*

It would not, I submit, be lawful to surrender him, nor to permit him to be seized as a slave within our jurisdiction. Would it not therefore be sufficient,—for the Political Agent fully to explain to the owner what are our laws against slavery in this respect,—and to express regret that it would be a breach of those laws to comply with his application. And this course might have some effect in preventing the ill treatment of their slaves by Scindians; which might be aggravated by a well known case of full price obtained for an unruly slave, by his fleeing from his master's cruelty.

*Minute by the Right Honorable the Governor of Bombay, dated the 2d February, 1838.* No. 26.

Slavery within the dominion of British India is not unlawful, though the sale of slaves is so.

Still less can we say that our laws will not allow of our recognizing the existence of slavery in Katteewar.

We have very lately been compelled to admit the right of the Rao of Cutch to import slaves into his own dominions.

I dare say Mr. Erskine will take the opportunity to express to the Sindian slave master his opinion of the great evil of treating his slave with cruelty.

On the whole, therefore, I would submit that we should act on my former Minute.

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*Minute by the Honorable Mr. Farish, dated 3d February, 1838.* No. 27.

In reporting the amount stated to be the purchase money of this slave, perhaps the Political Agent should also state whether that amount seems what would be reckoned a fair price for such a slave.

I should be much obliged to the Secretary, to point out the Regulation (if there be any) under which, within the jurisdiction of our Courts, a Magistrate may interfere to punish a runaway slave, or to compel him to return to his master; or if there be not such regulation and a master in using force to compel the return of such slave should do him a bodily injury, the regulation (if, there be any such) under which such master would be relieved from the penalties of an unjustifiable assault.

I beg to apologise for giving this trouble, but I have not been able to trace any provisions on the subject.

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*From the Secretary to Government of Bombay, to the 1st Assistant Political Agent in charge, Katteewar, dated 10th February, 1838.* No. 28.

I am directed to acknowledge the receipt of Mr. Erskine's letter dated the 31st December last, with enclosure, soliciting instructions in the case of an African slave who escaped from his master, a Sindian of Wagur, and sought the protection of the British Government but now claimed by his owner.

2. In reply I am instructed to acquaint you that the Governor in Council is of opinion, that the owner of this unfortunate youth should, as a special case, be paid by Government the price for which he was purchased; but before sanctioning any sum you will be pleased, without informing the owner of this intention, to ascertain from him what was the amount of the purchase, and to state whether that amount seems what would be reckoned a fair price for such a slave.

No. 29. *From Mr. James Erskine, Political Agent, Kattcewar, to the Secretary to Government of Bombay, dated 24th March, 1838.*

1. With reference to the 2d paragraph of your letter to my 1st Assistant, No. 258 of the 10th ultimo, I have the honor herewith to transmit for the information of the Right Honorable the Governor in Council, copy of a correspondence between that officer and the Resident in Cutch, from which it appears that the Seedee slave in question was obtained by his owner in exchange for a buffaloe and milch cow valuing two hundred and fifty Kutch Coorees, or Company's Rupees 65-15-5. This sum Colonel Pottinger states, is not considered a high price for a slave; in which opinion I perfectly agree, since I find that the average price of a grown up Seedee in this province has seldom or never fallen below one hundred sicca rupees.

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No. 30. *From the 1st Assistant Political Agent in Charge Dhorajee, to Colonel Pottinger, Resident in Cutch, Bhooj, dated 26th February, 1838.*

I have the honor to annex copy of a letter from Mr. Secretary Willoughby of the 10th instant: and as the Seedee slave therein alluded to formerly belonged to Scindee Keshur, who is said to reside in a Ness near Shikarpoor in Wagur, I shall feel obliged by your either procuring for me the information required in the second paragraph of the Government letter, or sending that individual to me here. The Seedee slave further states that Scindee Keshur purchased him from an old man in Mandawee of the name of Munace, to whom he was sold by the Arab dealer. He is not aware of the price paid by either of these parties, and it would therefore appear advisable to ascertain if possible from Scindee Munace likewise the price for which he sold him. Moobaruck is the name of the Seedee, and he states that he was sold about five years ago at Mandawee by Arab Dulliman and transferred a few days afterwards to his late owner.

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No. 31. *From the Resident in Cutch, Bhooj, to Captain Lang, Assistant Political Agent in charge, Rajcote, dated 19th March, 1838.*

I have the honor to acknowledge the receipt of your letter of the 26th ultimo, with its accompanying copy of one from Mr. Secretary Willoughby, and to acquaint you, that the Scindee (Keshur) states, that he gave a buffaloe and a milch cow (which had been previously appraised by competent judges at two hundred and fifty coories) for the Seedee boy Moobaruck to Muinnaee Toork of Dribbh, near Mandanee. I also find, that 250 coories or Company's Rupees 65-15-5, is not considered a high price for a slave.

*From Secretary to Government of Bombay to the Political Agent,* No. 32.  
*Katteewar, dated 9th June, 1838.*

I am directed to acknowledge the receipt of your letter dated the 24th March last, with its enclosure, regarding an African slave who escaped from his master and sought the protection of the British Government, and to acquaint you that the Right Honorable the Governor in Council is pleased, as a special case, to authorize your paying to the owner of the slave in question Rupees 65-15-5 as compensation, and to set the slave at liberty.

*From the Secretary to Government of Bombay to the Accountant* No. 33.  
*General, dated 9th June, 1838.*

I am directed by the Right Honorable the Governor in Council to transmit for your information copy of my letter of this date to the Political Agent at Katteewar, authorizing him to disburse the sum of Rupees 65-15-5, on account of a slave who has been set at liberty by order of Government.

*From the Officiating Secretary to Government, Judicial Department,* No. 34.  
*to the Secretary to Government of Bengal, dated 24th September, 1838.*

I am directed by the Hon'ble the President in Council to forward to you the accompanying copy of an extract from the proceedings of the Supreme Government, in the Political Department, dated the 12th instant, and to request that you will, with the permission of the Hon'ble the Deputy Governor of Bengal, call upon the Sudder Dewanny Adawlut at the Presidency, for a report of the nature therein alluded to.

*From Register Suddur Dewanny and Nizamut Adawlut, to the* No. 35.  
*Secretary to Government of Bengal, in the Judicial Department,*  
*dated 9th November, 1838.*

I am directed by the Court to acknowledge the receipt of your letter No. 1916, dated the 2d ultimo, with enclosures, requesting that the Court will state the practice of the Criminal Courts under their control in regard to cases of a similar

Nizamut Adawlut.  
 Present,  
 R. H. Rattray, )  
 W. Braddon, Esqrs.  
 and  
 W. Money, )  
 Judges,  
 and  
 J. F. M. Reid, Esqr.  
 Offg. Judge.

nature to that in which His Highness the Guicowar demanded through the Resident of Baroda, that the Magistrate of Nassick should deliver up two female slaves belonging to his daughter, who had left her on her arrival at that place from Poona.

2. In reply I am desired to state for the information of His Honor the Deputy Governor, that in ordinary cases the jurisdiction in matters regarding the property in slaves rests with the Civil Courts, and that a Magistrate would not be justified in interfering in order to compel their return to persons claiming them. In the case under consideration the Court are of opinion that a Magistrate should have acted precisely as the Magistrate of Nassick has done, that is, refuse to deliver up the slaves, and refer the question for the decision of Government.

3. The Court direct me to observe that on a former occasion, the Government authorized the payment of the value of certain slaves claimed under somewhat similar circumstances. At the same time however it was remarked that "whatever reasons may exist for maintaining the existing laws respecting domestic slavery among the two great classes of the native subjects of this country, the Mahomedans and Hindoos, the Governor in Council is not aware of any principle of justice or policy which requires us to render our Courts of Judicature the instruments for compelling persons who may seek an asylum in the British Territories to return in bondage to the countries from which they may have originated." The principle involved in this extract from the Secretary's letter, the Court apprehend is applicable to the case of a slave seeking the protection of the Company's Courts, though brought within their jurisdiction by the foreign proprietor himself.

4. The enclosures of your letter are herewith returned.

See Mr. Secretary Dowdewell's letter to the Register S. D. A. 6th June, 1810.

No. 36. *From the Acting Chief Secretary to Government of Bombay to the Secretary to the Right Honorable the Governor General of India, Camp, dated 12th September, 1838.*

I am directed by the Right Hon'ble the Governor in Council to transmit to you, for the purpose of being submitted to the Right Hon'ble the Governor General of India, copies of the accompanying two communications from the Joint Magistrate of Nassick and the Political Commissioner for Guzerat, dated the 8th March and 2d May last, regarding an application preferred by His Highness the Guicowar, for the surrender of two female slaves who had left the service of his daughter, and taken refuge at Nassick on the plea of ill-treatment.

Min by the Governor, dated 8th (a) April, 1838.  
 Ditto Mr. Farish, dated 10th (b) April, 1838.  
 Ditto Mr. Anderson, dated 11th (c) April, 1838.  
 Ditto The Governor, dated 16th (d) April, 1838.  
 Ditto Mr. Anderson, dated 17th (e) April, 1838.  
 Ditto The Governor, dated 1st (f) May, 1838.  
 Ditto Mr. Farish, dated 2d (g) May, 1838.  
 Ditto ditto Mr. Anderson, dated 3rd (h) May, 1838.

2. To put the Right Hon'ble the Governor General in possession of the sentiments of the several Members of this Government on the above subject, I am directed to transmit also copies of the Minutes enumerated in the margin, from which His Lordship will

(a) See No. 5 of this Appendix.

(b) See No. 6 Idem.

(c) See No. 7 Idem.

(d) See No. 8 Idem.

(e) See No. 9 of this Appendix.

(f) See No. 10 Idem.

(g) See No. 11 Idem.

(h) See No. 12 Idem.

perceive that the Right Hon'ble the Governor and the Hon'ble Mr. Farish were of opinion that the slaves in question should be redeemed by the British Government, instead of their being surrendered to His Highness the Guicowar or his daughter, and that the Hon'ble Mr. Anderson much doubted the expediency of either course.

3. The Governor in Council is therefore desirous of being informed how such a case would be dealt with by the Magistrates under the Bengal Presidency, on a similar demand by any foreign Prince with whom the British Government is in alliance, and to be favored with the sentiments of the Right Honorable the Governor General of India as to the course which this Government should follow in the present instance.

4. With reference to the case adverted to in Mr. Farish's Minute\* No. 2 of the 10th April, and that alluded to in the 3d para. of Mr. Anderson's Minute† No. 8 of the 3d May, I am further instructed to transmit for the information of His Lordship the enclosed extracts from the proceedings of this Government shewing the grounds on which they acted in those two cases. The one relates to a slave who took refuge at Poona and the other to a runaway slave in Katteewar.

\* See No. 6 Supra of this Appendix.

† See No. 12 Idem.





## A P P E N D I X XVIII.

### SLAVES CARRIED AND IMPORTED BY SEA.

- No. 1. Report of the Special Commission, Bombay, dated 5th May, 1837, to Secretary to Government.
- No. 2. From Mr. Advocate General A. S. LeMessurier, Bombay, dated 29th April, 1837, to the Superintendent of the Indian Navy.
- No. 3. Regulation to be observed by all Arab boats and vessels arriving at or departing from Bombay who do not take Pilots,—enclosed in above.
- No. 4. Extract of a letter from the Chief Secretary to Government of Bombay to the Advocate General, dated 7th June, 1837.
- No. 5. Extract of a letter from the Advocate General to the Secretary to Government of Bombay, dated 27th June, 1837.
- No. 6. Extract of a letter from the Chief Secretary to Government of Bombay, dated 7th August, 1837, to the Advocate General, in reply to the above.
- No. 7. From the Chief Secretary to the Government of Bombay, dated—August, 1837, to the Acting Resident in the Persian Gulph.
- No. 8. From the Superintendent of the Indian Navy to the President and Governor in Council of Bombay, dated 3d April, 1837.
- No. 9. From Acting Commander F. Rogers, of the Honorable Company's Brig of War Euphrates, to the Superintendent of the Indian Navy, Bombay, dated 10th March, 1837.
- No. 10. The Statement of "Salim," a boy taken out of the Futtel Kurreem.
- No. 11. The Statement of "Singar," a boy taken out of the Futtel Kurreem.
- No. 12. The Statement of "Commise," a boy taken out of the Francis Warden.
- No. 13. From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 29th April, 1837.
- No. 14. From the Secretary to Government of Bombay to the Senior Magistrate of Police, dated 29th April, 1837.
- No. 15. From the Superintendent of the Indian Navy to the President and Governor in Council, dated 9th May, 1837.
- No. 16. From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 22d May, 1837.
- No. 17. From the Acting Senior Magistrate of Police to the Secretary to Government, dated 27th May, 1837.
- No. 18. From the Chief Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 12th June, 1837.
- No. 19. From the Superintendent of the Indian Navy to the President and Governor in Council, dated 16th June, 1837.

- No. 20. Memorandum by the Chief Secretary, dated 17th June, 1837, approved by the Board.
- No. 21. From the Chief Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 17th July, 1837.
- No. 22. From the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 17th July, 1837.
- No. 23. From the Acting Senior Magistrate of Police to the Chief Secretary to Government, dated 21st July, 1837.
- No. 24. From the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 9th August, 1837.
- No. 25. From the Chief Secretary to Government of Bombay to the Advocate General, dated 9th August, 1837.
- No. 26. From Mr. A. S. LeMessurier, Advocate General, Bombay, dated 16th August, 1837, to the Chief Secretary to the Government of Bombay.
- No. 27. From the Chief Secretary to Government of Bombay to the Acting Assistant in charge of the Bushire Residency, dated 30th October, 1837.
- No. 28. From the Chief Secretary to Government of Bombay to the Secretary to the Government of India, Fort William, dated 30th October, 1837.
- No. 29. From the Superintendent of the Indian Navy to the President and Governor in Council, dated 30th September, 1837.
- No. 30. From the Acting Commander Honorable Company's Sloop of War Amherst to the Superintendent of the Indian Navy, dated 29th September, 1837.
- No. 31. From the Chief Secretary to Government of Bombay to the Advocate General, dated 8th November, 1837.
- No. 32. From Mr. Advocate General A. S. LeMessurier to the Secretary to Government of Bombay, dated 21st November, 1837.
- No. 33. Minute by the Right Honorable the Governor, subscribed to by the Honorable Mr. Farish.
- No. 34. From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 8th December, 1837.
- No. 35. From the Secretary to the Government of Bombay to the Secretary to the Governor General of India, dated 26th December, 1837.
- No. 36. From the Secretary to the Government of India to Mr. J. P. Willoughby, Secretary to Government of Bombay, dated 24th January, 1838.
- No. 37. From the Secretary to Government of Bombay to the Secretary to Government of India, Fort William, dated 28th February, 1838.
- No. 38. Letter from Mr. G. L. Elliot, Agent for the Governor of Bombay, at Surat, to the Secretary to the Government of Bombay, dated 4th December, 1840, containing report on the slaves imported into the Portuguese Ports of Demaun and Dieu, such report being called for by the order of Government, dated 15th October, 1840.
- No. 39. Letter from the Secretary to Government of Bombay to the Secretary to Government of India, dated 31st December, 1840, forwarding above.

## APPENDIX XVIII.

*Report of the Special Commission, Bombay, dated 5th May, 1837, No. 1.  
to Secretary to Government.*

We have the honor to acknowledge the receipt of your letter of the 30th March last, appointing us a Committee for the purpose of amending the rules framed in 1820 for the guidance of Arab boats and vessels entering or quitting the harbour of Bombay,—with direction to include such arrangements as may in our opinion tend to a more efficient suppression of the slave trade, and intimating that, one of the reasons of associating together the officers composing this Committee arises from a hope that effectual arrangements may be devised, by means of existing establishments without any additional expense being entailed upon Government.

2. In reply we have the honor to acquaint you for the information of the Right Honorable the Governor in Council, that in pursuance of these objects, our first step was to address a letter to the Advocate General\* to ascertain from that officer, what the law is in regard to those foreign powers, with whom we have no treaties for the suppression of the slave trade,—as it appeared to us that severe penalties against all individuals in any way concerned in this detestable traffic, together with high rewards to informers,—both being promulgated to the utmost,—were the only means which promised to put an effectual stop to it,—as it will be seen therefore from his reply which we have the honor to hand up in original that these two preventives are already amply provided by the Act,

3. George IV. Chap. 113, in regard to all foreign as well as British vessels and subjects, within the limits of the British Territories; since it enacts that all persons importing, &c. slaves,—shall be guilty of felony punishable with transportation for a term not exceeding fourteen years, or imprisonment with hard labour for a term not exceeding five nor less than three years,—shall forfeit £100 for every slave imported, a moiety whereof shall go to the informer, and all property in the slave forfeited, and the vessel and her tackling, &c. and all goods belonging to the owner also forfeited,—British subjects, or any persons on shore purchasing, or having such slaves in their possession with a criminal intent, for the purpose either of trade, or of their being used, or dealt with as slaves, being likewise punishable as felons with transportation or imprisonment at the discretion of the Court before which the offender shall be tried.

3. All that seems chiefly wanted is to make this highly penal statute sufficiently known throughout the British Territories on this side of India and in Arabia;† and we would accordingly recommend,—that the accompanying draft of a proclamation, embodying its provisions, be translated into the Persian, Arabic, and vernacular languages of this Presidency, and published from time to time in the Government Gazette,—that copies of it be furnished to the Nacodahs or commanders of all

\* See No. 2 *infra*.

† — No. 3 *idem*.

Arab vessels frequenting our Ports,—and that the other measures described in the paragraph of Mr. LeMessurier's letter with respect to Regulation I. of 1813 to give it further publicity, and as is therein stated to prevent those who are the subjects of it, incurring its penalties from ignorance of its enactments, be also resorted to.

4. Although placing our principal reliance upon rewards to informers, as a measure of detecting violations of the statute in question, since the whole community are as it were led to watch and report the proceedings of offenders,—we would not recommend,—that the whole of the existing rules in regard to Arab vessels entering or quitting the harbour of Bombay be set aside as is proposed in the letter to Government of the Senior Magistrate of Police dated the 30th November last, a copy of which he has laid before us,—but that the 4th and 5th Rules only be abrogated; since we are of opinion that the other three rules, in conjunction with those which we have added, will be useful auxiliaries, should they have no other good effect, in making known the state of the law to those, (and there may be some) who in spite of the measures, we have adverted to, for disseminating a knowledge of its penalties, may nevertheless visit this Port in ignorance of them: and although they would not of course under such circumstances, prevent Arab vessels having slaves on board, they may still have a salutary effect in deterring the owners from disposing of them by sale within the Honorable Company's Territories.

5. A draft of the Rules which we propose to substitute for those prepared in 1820 are herewith transmitted.

6. Although also, laying no great stress upon the efficacy as a check, of boarding such vessels on their entering and quitting the harbour, since the parties who are implicated in such practices, will then of course be on their guard, and their victims restored to silence, still as some good may possibly arise from it,—we would further propose, that they be made liable to such inspection,—not however as suggested by the senior Magistrate of the Police, in the letter we have already noticed, by means of a Bunder boat to be attached to the Police Department, under other arrangements therein specified, (since besides the expense of such a boat, it would involve that of a large floating establishment besides, under the control of the Superintendent Indian Navy, to give proper effect to it,)—but by the Custom Department; as we learn from the Collector of Customs, that his floating establishment, must when the new Custom Tariff, shortly looked for, is introduced, be strengthened at all events, and will then be fully competent to undertake this duty.

No. 2. *From Mr. Advocate General A. S. Le Messurier, Bombay, dated 29th April, 1837, to the Superintendent of the Indian Navy.*

I have the honor to acknowledge the receipt of your letter of the 4th instant, written as President of Committee appointed by Government to enquire into the best means for the prevention of the slave trade at this Presidency, and requesting my opinion on certain points referred to in your letter.

The law as regards Foreign vessels bringing slaves into a British Port in India is the same as is applicable to British vessels importing them; and it makes no difference whether the Foreign vessels belong to nations with whom

we have Slave Treaties, or are vessels under Arab colors, or sailing under the flag of independent Native chiefs, not bound by any Slave Treaties. All are liable to the penalties of the Slave Abolition Act the 5th George 4 Chapter 113,—a statute so universal in its language as to comprehend *all persons whatsoever*, foreigners as well as our own subjects—the jurisdiction over the former attaching from the locality of the offence, from the crime being committed by them within the local limits of the British Territories and within the local jurisdiction of the British Laws.

So far back as the years 1789, long before the abolition of the African slave trade by the British Parliament, a Dane, Captain Hornbow, was tried and convicted by the Supreme Court of Calcutta for kidnapping a number of slaves, males and females, and transporting them from Chandernagore, a French Settlement, to the Island of Ceylon, then under the Dutch, and there selling them,—the slaves being originally intended for the Mauritius. The jurisdiction of the Court was objected to on behalf of Captain Hornbow, not only on account of his being a foreigner, but from its “appearing that the slaves had been purchased at Chandernagore, that “they were taken from thence without stopping at all in Calcutta, but went “down on the opposite side of the river until they came near the new Fort, “where on account of a sandbank they were obliged to cross to the Calcutta side. “It was contended therefore, that the offence was not committed any where but “at Chandernagore and upon subjects of the French King, owing no allegiance to “the King of Great Britain, and that therefore the Court had no jurisdiction in “the case.” Sir Robert Chambers, the presiding Judge, was of opinion “that, Captain Hornbow was subject to the jurisdiction of the Court, (as well by the peculiar ground stated by him, which made him, though a foreigner amenable to the Court, as) from the offence being actually committed in Calcutta, from the Budgerow,” in which the natives were confined, having come within the limits of the jurisdiction of the Court; and he was accordingly sentenced to be imprisoned for three months, to pay a fine of five hundred rupees, and to give security for his future good behaviour for three years,—himself in a bond of ten thousand rupees and two securities in five hundred rupees each. (*E. I. Parliamentary Papers.*)

This was a strong case as there had been no intention originally of importing the slaves into Calcutta: but the Budgerow in its transit down the river was from necessity on account of the sandbank obliged to enter the Calcutta limits.

In 1812 Sir John Newbolt, the Recorder of Bombay at that time, in an address to the Grand Jury in alluding to the Act which had then just come out,—by which the slave trade was made punishable as a felony, (the 51st George 3, Chapter 23, passed in May 1811) commonly called the Felony Slave Trade Act, (which though repealed, yet its provisions are re-enacted in the latter Act of 5th George 4, C. 113, in stronger and more comprehensive terms)—expressed his opinion of the application of the Act, to foreigners as well as to British subjects. I have not been able to find a report of this address in any other Bombay publications than the Bombay Courier Newspaper of 17th October 1812; but the address is noticed by the Advocate General of Madras, who was afterwards Recorder of Bombay, Sir Alexander Anstruther, in an official correspondence with the Madras Government. His attention having been called to it as published in the Government Gazette there, he remarked he had not ascertained its authenticity, that being immaterial to the present object, and proceeded to observe—“There seems to me to be no doubt of the correctness of the “observation contained in the above publication, that under the strict interpretation “of the Statute of 1811 (the Slave Trade Felony Act) the commander of an Arab, or

“ other foreign Asiatic vessel,—carrying slaves for sale, or only even navigating partly “ by the slaves of the owner or commander, and entering any British port in India,— “ becomes liable to the penalties of felony.” (*Letter dated 17th November 1812.*)

His Majesty's Attorney and Solicitor General in England, upon their opinions being required whether the Felony Slave Trade Act was to be considered applicable to Java and its dependencies, *which at the time of the passing of it (May 1811) were not actually in the possession of the British Authority*,—those Crown Officers, referring to the Act,—by which they observed, that the carrying on the slave trade was prohibited under severe penalties by any person residing or living within any of the Islands, Colonies, Dominions, &c. now or hereafter belonging to the United Kingdom, or being in His Majesty's occupation, or possession, or under the Government of the East India Company, the Act to be in force, in the East India Seas, &c. the 1st January 1812,—went on to remark, “ that under these words, so much of the Island of Java as was in the occupation or possession of His Majesty would be comprehended, and the slave trade therein prohibited, unless there was any thing in the terms of the capitulation to produce a different result—such parts however of the Island and its vicinities, the waters and seas adjoining, which were not in His Majesty's occupation or possession, and which did not belong to His Majesty or the East India Company, but to independent Princes, were not affected by this or any other Act of the British Parliament: nor could their trade be restrained thereby, unless it was carried on in British vessels or by British subjects, or persons *resident or living* in a British Settlement.” (*Letter of Sir T. Plumer, Attorney General, and Sir William Garrow, Solicitor General, to Lord Bathurst, 3d March 1813, East India Parliamentary Papers.*)

In the Supreme Court of Bombay at the Sessions July 1835, a native of Scinde, who had merely come to Bombay for a few days, was tried and convicted for having caused some children to be exported as slaves from Bombay, and was sentenced to the House of Correction for three years for the offence.

These authorities are sufficient to shew the jurisdiction of our slave laws over foreigners carrying on the trade *within* our Ports and Territories.

With regard to the carrying on the trade *without* the limits of our Ports and Territories,—the doing so on the high seas is an offence; which, by the 5 George 4 is made *piracy* (thus being classed amongst the offences against the law of nations); though long before the year 1824, when this Act was passed, the practice had been declared in the British Parliament (in 1807) contrary to *humanity* and *universal justice*. But though made piracy, still the jurisdiction of our law over this offence,—this particular kind of piracy,—is not as regards the *offender* as extensive as in the ordinary cases of piracy of depredations by sea rovers,—the universal enemies of the whole world “*hostes humani generis*” enacting universal terror; whose hand is against every man and every man's hand, therefore, against them, and whom the strong arm of the law of every country has a right to punish. But, to render a foreigner (as distinct from a British subject) liable to British jurisdiction as a slave pirate (under statute 10th of 5th George 4),—he must be a person either “*residing, being within any of the Dominions, Forts, Settlements, Fortresses, or Territories now or hereafter belonging to His Majesty, or being in His Majesty's occupation or possessions, or under the Government of the East India Company.*”

Foreign vessels, carrying on the slave trade *without* entering our Ports and without the limits of our Dominions, vessels of foreign independent States which

allow their subjects to carry on the trade are not amenable to our laws for so doing.

The *Diana*, a Swedish vessel, bound with a cargo of slaves from the Coast of Africa to St. Bartholomew, a Swedish Island, was seized by His Majesty's ship *Crocodile*, Captain Columbine, and by the Vice Admiralty Court at Sierra Leone was condemned: but the sentence on appeal was reversed,—Sweden at the time of the capture (1810) not having abolished the slave trade. Sir William Scott in reversing it, observed that our own country claimed no right of enforcing the prohibition of the slave trade against the subjects of those States, which had not adopted the same opinion with respect to the injustice and humanity of it. (*Dodson's Admiralty Reports.*)

In the case of the *Amedie* however, an *American* vessel, which was condemned by the Vice Admiralty Court of Tortola, for carrying slaves from the Coast of Africa to a Spanish colony, the condemnation on appeal was affirmed,—America at the time having prohibited its own subjects from engaging in the traffic. Sir William Grant in delivering the Judgment of the Supreme Court observed, that our legislature has pronounced the Slave Trade to be contrary to the principles of justice and humanity, and we can now assert that this Trade cannot, abstractedly speaking, have a legitimate existence. When I say abstractedly speaking, I mean that this country has no right to controul any foreign legislature that may think fit to dissent from this doctrine, and to permit to its own subjects the prosecution of this Trade: but we have now a right to affirm that *primâ facie* the Trade is illegal, and thus to throw on claimants the burthen of proof that, in respect of them, by the authority of their own laws, it is otherwise. As the case now stands, we think we are entitled to say that a claimant can have no right upon principles of universal law, to claim the restitution, in a Prize Court, of human beings carried as his slaves. He must shew some rights that have been violated by the capture, some property of which he has been dispossessed, and to which he ought to be restored. In this case the laws of the claimant's country allow of no right of property such as he claims. There can therefore be no right to restitution. The consequence is, that the judgment must be affirmed. “(Actor's Report cited also in 1 Dods.)”

This case of the *Amedie* has been the leading authority for subsequent decisions, and Sir William Scott in noticing it in the above case of the Swedish vessel “*Diana*,” made the following remarks: “The principle laid down by the Supreme Court in the case of the *Amedie* was, that where Municipal laws of the country to which the parties belonged have prohibited the Trade, the Tribunals of this country will hold it to be illegal upon the general principles of justice and humanity, and refuse restitution to the property. But on the other hand, though they consider the Trade to be general contrary to the principles of justice and humanity *where* not tolerated by the laws of the country, they will respect the property of persons engaged in it under the sanction of the laws of their own country. The Lords of appeal did not mean,—to set themselves up as legislators for the whole world, or presume in any measure to interfere with the Commercial Regulations of other States,—or to lay down general principles that were to overthrow their legislative provisions with respect to the conduct of their own subjects. It is highly fit that the Judge of the Court below should be corrected in the view which he has taken of this matter, since the doctrine laid down by him in this sentence (that the slave trade from motives of humanity hath been abolished by most civilized nations, and *is not at the present time legally authorized by any*) is inconsistent with the peace of this country and the rights of other States. (*See also the cases of the*



*Fortuna* and *Donna Maria* decided by Sir William Scott, Dodson's Admiralty Reports, on the authority of the Amedie.)

In the above-mentioned case of the *Diana* the endorsement upon the pass signed by the Swedish Governor (of St. Bartholomew) that the vessel was "bound to the Coast of Guinea for slaves," was held by Sir William Scott to be sufficient proof that Sweden permitted the Trade. It was not necessary, he said, that there should be an immediate act of the Swedish Government itself on board, declaring what the precise state of the law may be.

There is one more case I would refer to, as it was determined,—not by a Prize Court under the law of nations,—but before our own Municipal jurisdictions, and so late as 1820, in which the principles in the above cases were recognized. It was the case of *Madrigo versus Willis*, which was an action brought by the plaintiff, a Spanish merchant, against the defendant Captain Willis of the Royal Navy, to recover damages for his having seized a Spanish brig, the property of the plaintiff, bound from the Coast of Africa to the Havannah in the Island of Cuba, with a cargo of 300 slaves on board, and for which the jury gave him £21,180 damages, being £3,000 for the deterioration of the ship's stores and goods and £18,120 for the supposed profit of the cargo of slaves. It was at first thought at the trial, that the plaintiff could not recover the value of the slaves in an English Court of Justice, but upon the question being brought into the King's Bench, the four Judges held that he could,—Spain not having prohibited her subjects from carrying on the Slave Trade. Sir William D. Best in delivering his judgment, said "the declaration of the British Legislature that the slave trade is contrary to justice and humanity cannot effect the subjects of other countries or prevent them from carrying on this Trade out of the limits of the British Dominions." (Barnewall and Aldersons, 358.)

With reference to those paragraphs of your letter, requiring to know the punishment for the particular Act, of the slave dealing specified in your letter,—as the provisions of the Act in regard to them and for every kind and species of slave dealing are so severe and in the highest degree penal,—I beg to refer you to the Act itself (the 5th George 4 Chapter 113,) and will here only generally state, that the Act declares all persons importing, &c. slaves,—shall be guilty of felony punishable with transportation for a term not exceeding fourteen years, or imprisonment with hard labour for a term not exceeding five, nor less than three years (sec. 10)—shall forfeit £100 for every slave imported, a moiety whereof shall go to the informer and all property in the slave forfeited (sec. 3) and the vessel and her tackling, &c. and all goods on board belonging to the owner also forfeited. British subjects or *any persons* on shore, purchasing or having such slaves in their possession with a criminal intent for the purpose either of trade or of their being used or dealt with as slaves, are punishable as felons under the 10th Section of the Act with transportation or imprisonment at the discretion of the Court before which the offender shall be tried.

The same law with its penalties extends to the West Indies, where now, it is well known, not only the traffic has ceased, but under the twenty millions grant (3 and 4 W. 4 C. 73) slavery no longer in any shape exists; nor in any part of the British Dominions except in India, where it is recognized and sanctioned by law; but which by the late Charter Act Section 88 is to be extinguished as soon as practicable and safe.

Slavery in India has engaged the attention of the Indian Government from the time of Mr. Hastings, the first Governor General: and in 1828 a volume of

papers was ordered by the House of Commons to be printed, containing all the correspondence between the Court of Directors and the Indian Government on the state of slavery in India, with all orders and regulations that had been made in regard thereto from 1772 up to May 1827,—a volume which, if the Committee have not referred to on their present enquiries, I would beg to draw their attention to, as affording information of the measures which have, from time to time, been taken by the Supreme Government of India for the suppression of the Slave Trade throughout India and the Indian Seas.

In 1811 the Supreme Government passed a Regulation, entitled a Regulation for preventing the importation of slaves from foreign countries and the sale of such slaves in the Territories immediately dependent on the Presidency of Fort William. I notice this Regulation, as it was directed to be made and was made the model of the Bombay Regulation I, of 1813, entitled a Regulation for the preventing the importation of slaves from foreign countries, and the sale of such slaves in the Territories immediately dependent on the Presidency of Bombay,—differing from the Bengal one in a very slight degree; and which were passed with a view principally of preventing the importation of slaves by land into the Company's Territories,—the Act of the 51 George 3 being generally supposed to be confined to the importation by sea.

The volume I have referred to, will likewise shew the measures adopted by the Supreme Government consequent on the passing of the Felony Slave Act for carrying its provisions into effect, and the publicity that was given to it to prevent those, who were the objects of it incurring its penalties from ignorance of its enactments,—copies being distributed not only to Magistrates and all the British Authorities under the Company's Government, but furnished likewise to Political Agents and Residents for the information of Foreign States, and copies or extracts of the Act, with translation in the Arabic and Persian languages, forwarded to all the Arab Merchants and other persons connected with Arab shipping,—informing them at the same time that the Magistrates would use their utmost vigilance in directing and bringing to public justice all offenders against the statute,—and desiring them to take every opportunity of making known to their correspondents in the Red Sea, Persian Gulph, &c. the purport of such communication.

*Regulation to be observed by all Arab Boats and Vessels arriving at or departing from Bombay who do not take Pilots, enclosed in above.* No. 3.

1st. Immediately after the arrival of any such vessels, the Noquedah or chief person on board is to proceed to the office of the Inspector of the Port, and there give a true account of the Port he belongs to, of all persons on board, and of the armament of his vessel, which is to be noted down in that Officer's Book and signed by the Noquedah or chief attending.

2d. A transcript of the account so given is to be made out by the Inspector of the Port's Office, which is also to be signed by the Noquedah or chief, countersigned

by the Inspector of the Port, who is to send the Noquedah with the transcript to the Senior Magistrate of Police, and that officer is then to cause the Noquedah to attest the same upon oath, and keep it in his possession, strictly enjoining the Noquedah not to discharge from his vessel or receive on board any person whatever, without the Senior Magistrate's particular permission.\*

3d. Two days previous to the vessel's departure, the Noquedah or chief is to proceed to the Police Office where he is to state upon oath every casualty that has occurred during the vessel's stay in Port.

4th. Every such Arab boat, and vessel, shall on entering or quitting the harbour of Bombay or any port subordinate thereto, be liable to be boarded by the boat or boats belonging to the Custom Department and Department of the Inspector of the Port, and if any slaves be found therein, they are to be taken out and the vessel seized in order that the necessary measures may be taken for the offenders being prosecuted according to law.

5th. Copies of the annexed Proclamation, translated into the Persian, Arabic and other Native languages, shall be kept at the offices of the Senior Magistrate of Police and of the Inspector of the Port, and if at a subordinate port,—the Custom House and every Noquedah or commander of the aforesaid vessel on coming there for the purpose specified in Rule 2d of the existing Regulations, shall be furnished with one.

#### PROCLAMATION.†

With a view to the more effectual suppression of slavery which there is reason to believe is carried on to a considerable extent by Arab boats and vessels frequenting the Port of Bombay, and the several ports subordinate to this Presidency, it is hereby notified for general information,—and that no person may incur its severe penalties through ignorance,—that by the Act 5th George 4 Chap. 113, all persons, whether foreigners or British subjects,—importing slaves from foreign countries into any British Port, or disposing of such slaves by sale within the British Territories,—are punishable as felons, with transportation for a term not exceeding fourteen years, or imprisonment with hard labour for a term not exceeding five nor less than three years, and shall besides forfeit £100 for every slave imported, a moiety whereof shall go to the informers, and shall further forfeit all property in the slave and of the vessel and her tackling. British subjects or any persons on shore purchasing or having such slaves in their possession with a criminal intent, or for the purpose either of trade, or of their being used or dealt with as slaves are moreover also punishable as felons with transportation, or imprisonment, at the discretion of the Court before which the offender shall be tried.

(Signed) C. MALCOLM.

„ D. ROSS.

„ W. C. BRUCE.

\* To this paragraph was added this Clause not pertinent to Slavery. The correspondence to which it gave rise is omitted as irrelevant.

“ Apprizing him at the same time that none of the people belonging to the vessel (except himself and his servants) can be on shore after sun-set each day without subjecting themselves to imprisonment and other punishment.”

† See No. 1 *Supra*.

*Extract of a Letter from the Chief Secretary to Government of Bombay, to the Advocate General, dated 7th June, 1837,* No. 4.

Para. 4. With respect to the Proclamation submitted by the Committee, the Governor in Council is of opinion, that in one respect it is better than that proposed by Government, and approved of in your letter of the 4th April last, namely, that it provides the penalty of £100 for each slave imported, and that a moiety thereof should go to the informer.

5. Before adopting the Committee's Proclamation however, the Governor in Council is desirous of being favored with your opinion as to how Government will be authorized to deal with persons importing slaves into ports out of the jurisdiction of the Supreme Court.

*Extract of a Letter from the Advocate General, dated 27th June, 1837.*

No. 5.

Para. 4. With respect to the Proclamation submitted by the Committee, I think the one proposed by Government and approved of by me preferable, and would recommend therefore that the latter be adopted, with an additional clause however for rewards to informers. As to the reward of a moiety of the penalty held out by 5th George IV. of £100 for each slave,—that reward I would observe cannot be realized to the informer without his suing and prosecuting for the same; and supposing him to succeed in obtaining a judgment for the penalty, the party so condemned to pay it might perhaps be an insolvent person, and the informer would thus be disappointed of his reward. The expense too of litigation to recover the moiety of the penalty might deter that class of persons to which informers generally belong from coming forward and informing, and as rewards to informers are the principal means to be relied on, as the Committee say, for detecting violations of the Statute, I beg to suggest for the consideration of Government the propriety and expediency of the Proclamation (besides the reward held out by the Act) containing also an offer of a reward by Government of rupees fifty (or any other sum) for every slave discovered to have been imported in violation of the Act, and as all fines and forfeitures to the Crown are granted and belong to the Company the reward might come out of such fines. If this suggestion should meet with the approbation of Government, I shall be happy to add the necessary clause to the Proclamation.

5. Besides copies of it being published as proposed by the 2d Regulation of the Committee, I would advise the Regulation being extended to include Extracts from those parts of the Act (5th George IV.) more peculiarly applicable to the Nacodahs and commanders of the Arab vessels, who on being furnished with copies of the Proclamation, might also be informed of the substance and purport of the Act, and the severe penalties attached to a violation of it.

6. With reference to the last paragraph of your letter, I beg to observe, that all persons importing slaves into ports out of the jurisdiction of the Supreme Court,

must be dealt with in the same manner as those importing them within such jurisdiction, both agreeable to the enactments of the 5th George the IV., and by which the local Courts must be guided as well as the Supreme Court. The Regulations of the Bombay Code do not provide, as far as I see, for the seizure of slave vessels at subordinate ports, and seem to contemplate the import and export of slaves by land only, and not by sea; but in furtherance of the design of suppressing the slave trade entirely and every where within the Company's jurisdiction, it would be most advisable certainly were the powers of seizing slaves and vessels for a breach of the slave abolition laws more clearly defined.

No. 6. *Extract from a letter written by the Chief Secretary to Government of Bombay, dated 7th August, 1837, to the Advocate General in reply to the above.*

3. Government are inclined to greatly doubt if they would be authorized in putting in motion, the powers, which Admiral Sir Charles Malcolm may, as a King's Officer possess, of seizing any vessel or vessels found with slaves on board. A special enactment will therefore be applied for from the Supreme Government as recommended by you.

4. The Governor in Council approves of the suggestion contained in the latter part of your 4th paragraph relative to the expediency of the Proclamation in addition to the reward held out by the Act containing the promise of a further reward from Government for every slave discovered to have been imported in violation thereof, and requests that you will be pleased to add a clause to that effect to the Proclamation submitted for your opinion on the 31st March last.

5. With regard to the remarks in your 5th paragraph I am desired to request, that you will have the goodness to add, to the Regulations proposed by the Committee, such Extracts of the Act 5, George IV. as you may deem expedient, proximity however being as much as possible avoided,—a point Government consider highly important. The Governor in Council quite approves of your suggestion of the Naqoodahs and commanders of Arab vessels being distinctly apprized on their being furnished with copies of the Proclamation of the substance and purport of the Act, and the severe penalties incurred by its violation.

6. Adverting to the last paragraph of your letter, stating your opinion as to the course which should be observed towards persons importing slaves into ports out of the jurisdiction of the Supreme Court of Bombay, I am directed to request that you will favor Government, at as early a period as may be conveniently practicable, with a concise draft of the Regulations you would recommend, in order that the same may be submitted for the sentiments of the Right Hon'ble the Governor General of India in Council.

7. As connected with this subject, I am directed to transmit to you the accompanying draft of a letter to the Acting Resident in the Persian Gulf (which embraces some points of law) and to request the favor of your making any alteration which may in your opinion be deemed necessary.

*From the Chief Secretary to the Government of Bombay, dated August 1837, to the Acting Resident in the Persian Gulph.* No. 7.

1st. It having been brought to the notice of Government, that a practice of dealing in slaves is carried on by certain Arab Merchants trading from Mocha to Bombay, I am directed by the Right Honorable the Governor in Council to transmit to you for the purpose of being widely circulated in the Persian Gulph fifty copies of a Proclamation in the English, Persian and Arabic languages, denouncing this traffic in human being as illegal and punishable under severe penalties.

2d. The Governor in Council requests that you will take the earliest and most efficacious means of making known to the merchants and authorities connected with the Port at which you reside, both the nature of these penalties, and the firm intention of the British Government to use its most strenuous endeavours in discovering where they may be incurred, and to enforce them on such discovery with unsparing rigour.

3d. I am directed on this occasion to transmit to you copy of the Treaty concluded by Captain Moresby of His Majesty's ship *Menai*, with His Highness the Emaum of Muscat, on the 29th August 1822, prohibiting within certain limits the Slave Trade.

4th. In forwarding this document, the Right Honorable the Governor in Council instructs me to request that you will endeavour to prevail on His Highness to extend the above Treaty so as to include in its provisions the Provinces of Cutch and Kuttwar. At present vessels engaged in the Slave Trade are only liable to seizure if found to the Eastward of a line drawn from "Cape Delgado, passing East of Socotra, and on the Diu Head, the Western point of the Gulph of Cambay."

5th. The Governor in Council does not however think this sufficient. It might, he is of opinion, be very difficult for the British power to assume generally the right of detaining and searching on the high seas vessels which there is reason to suspect of being engaged in the Slave Trade; but there can be no objection, he conceives, to the exercise of this right over the vessels of Foreign Powers, where it is conceded by Treaty. You are therefore requested to endeavour to obtain from the Imaum, the right of searching any vessels fitted out from his Ports, and open to the suspicion above-mentioned.

6th. Government are also desirous that the same privilege should be obtained from other Arabian Potentates to whom we have access; and accordingly desires me to instruct you to take every opportunity for that purpose.

7th. The Governor in Council is not inclined to confine you to any particular instructions for the attainment of the object in view; but is rather disposed to leave the supplying of the requisite details to your own good sense and activity.

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No. 8. *From the Superintendent of the Indian Navy to the President and Governor in Council of Bombay, dated 3d April, 1837.*

I have the honor to lay before your Right Honorable Board the accompanying letter from Acting Commander Rogers of the Honorable Company's Brig of War Euphrates, under date the 10th ultimo, reporting his having taken three slave boys out of the vessels which he found laying in Juddah Harbour under English Colors, the one named the "Francis Warden" the other the "Futteh Kurreem."

2d. I have also to forward the deposition of the three slave boys, with a copy of the Registry of the ship "Futtel Kurreem," which Commander Rogers reports has been since sold, but to whom he does not mention.

3d. As it clearly appears that these vessels were found sailing under British Colors with British Registers, I trust that Acting Commander Rogers has acted correctly and in conformity to law, in taking the slaves from on board and sending them to Bombay. They have been brought by the Hugh Lindsay and are still on board, I have therefore to request to be made acquainted with the pleasure of your Right Honorable Board regarding their future disposal.

No. 9. *From Acting Commander F. Rogers to the Superintendent of the Indian Navy, Bombay, dated 10th March, 1837.*

I have the honor to inform you that having received information, that there were slaves on board a ship named the "Francis Warden" lying in this Harbour, which sails under British Colors, is British Registered and is owned by "Sheik Dyebin Ain," a resident in Bombay, I proceeded on board of the said ship, and there found an African boy named "Commise" who, on my asking him the question, told me he was a slave, but afterwards in the presence of his master the Nakodah, "Shaik Hawad," denied it. Conceiving his denying what he had before voluntarily stated, to be the effect of restraint, I took him on board the Euphrates. The Gunner of the vessel had pointed him out the day before to Lieutenant Porter as a slave, and on my desiring the Nakodah to send his crew aft on the quarter deck, all were sent, but this boy who was kept in the galley out of sight. This boy subsequently made the accompanying statement on board the H. C. Brig Euphrates in the presence of the Reverend Mr. Wolff, R. Goff, Esq., and myself.

After this I visited the "Futtel Kurreem" where I found two boys, one named "Singar" the other "Salim," who told me they were slaves, on which I sent them to the Euphrates.

I examined the other two British registered ships, but they had no slaves on board.

You will perceive by the accompanying statements that one of these boys was lately taken on board to Mocha, and according to his own account was to be sold at any place where a purchaser could be found.

I have not interfered in any way with the ships, on board which these slaves were found further than taking the boys out. I was informed by the Government

Agent at Mocha "Sheik Lyel," that many ships from India, under English colors, particularly those from the Malayan Peninsula, brought slaves to the ports of Red Sea.

I have been induced to seize these slave boys, because the Captains of the above named vessels have acted contrary to almost every Section of the 5 George IV. Cap. 113: but I have not seized the vessels as I am not aware how far Government might wish the matter prosecuted.

The "Francis Warden," I am informed, sails from this to the Persian Gulf. The "Futtel Kurreem" returns to Penang, but I do not think either ship will quit this before the end of May.

With the permission of Commander Rowland, I have sent the three boys Gom-mis, Singar, and Salim to Bombay.

I beg leave to enclose the Statements made by the boys, and also a copy of the pass of the Futtel Kurreem.

P. S. I have since learnt that the ship Futtel Kurreem, out of which I took the boys Singar and Salim, has been sold.

*The Statement of "Salim," a boy taken out of the Futtel Kurim.*

No. 10.

I am a slave. I was brought from "Sanar" to "Snakin," from thence to "Mocha," and there sold to "Hoorsie Joseph," who sent me on board the "Futtel Kurim" to be sold at this, or any other place. I did not come with my own consent.

The above Statement was made in our presence by the above named boy, March 2d, 1837,

(Signed) T. E. ROGERS, *Actg. Commdr.*  
 „ JOSEPH WOLFF, *Missionary.*  
 „ ROBERT GOFF.

*The Statement of "Singar," a boy taken out of the "Futtel Kurreem."*

No. 11.

I am a slave; my master the Nakodah bought me at "Mutra." I was taken to "Java," "Acheen" and "Penang," but never allowed to quit the ship. I receive no wages. I did not come with my own consent. I was told to go with my master. I was originally from another country: people came and spread dates and fat. I was hungry and took some to eat: then they carried me away. I have neither father nor mother. I was sold for five dollars.

The above Statement was made in our presence by the above named boy, March 2d, 1837,

(Signed) T. ROGERS.  
 „ JOSEPH WOLFF, *Missionary.*  
 „ ROBT. GOFF.



No. 12. *The Statement of "Commise," a boy taken out of the Francis Warden.*

I am a slave. I was purchased by my master the Nakodah out of the ship at "Shaar." I was taken to Bombay and Bengal and brought to this place. I do not get any wages, and I expect to be sold, whenever my master wishes to part with me. I have neither father nor mother.

The above Statement was made in our presence by the above named boy, March 2d, 1837,

(Signed)	T. E. ROGERS, <i>Actg. Commdr.</i>
"	JOSEPH WOLFF, <i>Missionary.</i>
"	ROBT. GOFF.

No. 13. *From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 29th April, 1837.*

I am directed by the Right Hon'ble the Governor in Council to acknowledge the receipt of your letter dated the 3d instant, with its enclosures, regarding the three slave boys taken out of two vessels at Juddah under English Colors, named the Francis Warden and Futtel Kurreem, by Acting Commander Rogers of the H. C. Brig of War Euphrates, and to request that you will make over the above children to the Senior Magistrate of Police.

No. 14. *From the Secretary to Government of Bombay to the Senior Magistrate of Police, dated 29th April, 1837. .*

I am directed by the Right Hon'ble the Governor in Council to inform you that the Superintendent of the Indian Navy has been requested to make over to your charge three slave boys taken out of the ships Francis Warden and Futtel Kurreem, sailing under English Colors, by the Acting Commander of the H. C. Brig of War Euphrates at Juddah, and to request you will send to Government, a Register of these children, stating at the same time how they can be disposed of.

*From the Superintendent of the Indian Navy to the President and Governor in Council, dated 9th May, 1837.* No. 15.

With reference to Mr. Secretary Willoughby's letter of the 29th ultimo, No. 767, I have the honor to report that the three slave children therein alluded to, were at their own request, on their arrival from the Red Sea, permitted to remain on board the *Hugh Lindsay*, and that in the hurry of dispatching that vessel to the Persian Gulf their removal was forgotten. They will however, immediately on the return of the Steamer, be made over to the Senior Magistrate of Police as directed by your Right Hon'ble Board.

*From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 22d May, 1837.* No. 16.

I am directed by the Right Hon'ble the Governor in Council to acknowledge the receipt of your letter dated the 9th instant, and to inform you that with their own free will the three boys therein alluded to, may be entered as Volunteers on board the *Hugh Lindsay*, on the usual pay and allowances.

*From the Acting Senior Magistrate of Police to the Secretary to Government, dated 27th May, 1837.* No. 17.

I have the honor to acknowledge the receipt of your letter, No. 768, dated 29th of last month, and to acquaint you, for the information of His Excellency in Council, that, on my Constable going to the Marine Office to receive charge of the African children taken out of the ships "*Francis Warden*" and "*Fattel Kurreem*," he was informed that they had been detained on board the "*Hugh Lindsay*" to form a part of her crew, and that the Superintendent of the Indian Navy had written to Government requesting to be permitted to retain them.

- No. 18. *From the Chief Secretary to Government, Bombay, to the Superintendent Indian Navy, dated 12th June, 1837.*

I am directed by the Right Hon'ble the Governor in Council to transmit to you, copy of a letter from the Acting Senior Magistrate of Police, dated the 27th ultimo, and to request that you will state whether the African boys therein alluded to, have of their own free will entered the service of Government.

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- No. 19. *From the Superintendent of the Indian Navy to the President and Governor in Council, dated 16th June, 1837.*

In acknowledging the receipt of Mr. Chief Secretary Wathen's letter, No. 1148, of the 12th instant, with enclosure, I have the honor to state that on the return of the Hugh Lindsay, finding the three slave boys were not willing to remain longer on board, although the offer of pay was made to them, they were transferred to the charge of the Senior Magistrate of Police, agreeably to the original instructions of your Right Hon'ble Board communicated in Mr. Secretary Willoughby's letter, No. 767, of the 29th April last.

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- No. 20. *Memorandum by the Chief Secretary, dated 17th June, 1837, approved by the Board.*

1. As the three slave boys alluded to in the letter from the Superintendent of the Indian Navy, dated the 16th instant, were not willing to remain on board ship, Sir Charles Malcolm did right to make them over to the Police Magistrate as originally ordered by Government.

2. Mr. Elliot should now be called upon to send in a Register of these boys as required in Mr. Secretary Willoughby's letter of the 29th April last, and to report how they can be disposed of.

3. When the above information is obtained the Advocate General should (as before suggested by the Right Hon'ble the Governor) be requested "to advise how Government should act" in this case.

*From the Chief Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 17th July, 1837.* No. 21.

I am directed to acknowledge the receipt of your letter dated the 16th ultimo, reporting that the three slave boys taken out of the ships "Francis Warden" and "Futtel Kurreem" have refused to remain any longer on board ship, and that you have in consequence made them over to the Senior Magistrate of Police, and to inform you that the Right Hon'ble the Governor in Council approves of your proceedings on the occasion.

*From the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 17th July, 1837.* No. 22.

With reference to your letter dated 27th May last, relative to the three African boys taken out of the ships "Francis Warden" and "Futtel Kurreem," I am directed by the Right Hon'ble the Governor in Council to request that you will forward a Register of these boys as required in Mr. Secretary Willoughby's letter of the 9th April last, and to report how they can be disposed of.

*From the Acting Senior Magistrate of Police to the Chief Secretary to Government, dated 21st July, 1837.* No. 23.

I have the honor to acknowledge the receipt of your letter No. 1332 of the 17th instant, and to enclose the Register Roll of the African boys therein called for.

They objected strongly to go into Christian families and I therefore made over charge of them to two respectable Mussulmans, Fuzhydur Bare Maya and Hyder Ali Cassimjee, who each entered into an agreement to protect, feed, and clothe them, and to assign them suitable wages for their labour.

*Register of African children taken from the Ships "Francis Warden" and "Futtel Kurreem."*

No.	Names.	Age.	Sex.	Country.	To whom delivered.
1	Sengoor, ....	10	Male,...	Dnuzibar, .....	Fuzhydur Bare Maya.
2	Salim, .....	13	Ditto,...	Ditto,.....	Hyder Alli Cassimjee.
3	Kamiss,.....	12	Ditto,...	Ditto,.....	Ditto.

- No. 24. *From the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 9th August, 1837.*

I am directed to acknowledge the receipt of your letter dated the 12th ultimo, forwarding a Register Roll of the three African boys taken out from the Ships "Francis Warden" and "Futtel Kurreem," and stating that in consequence of their refusing to go into Christian families you have given them over to two respectable Mussulmans, who have entered into an agreement to protect, feed, and clothe them, as also to assign suitable wages for their labour, and to inform you that under the peculiar circumstances stated, the Right Honorable the Governor in Council approves of the arrangement.

- No. 25. *From the Chief Secretary to the Government of Bombay to the Advocate General, dated 9th August, 1837.*

I am directed by the Right Honorable the Governor in Council to transmit to you the accompanying copy of a letter from the Superintendent of the Indian Navy, dated the 3d April last, and of its enclosure, regarding three African children taken out of two vessels at Juddah under English Colors named "Francis Warden" and "Futtel Kurreem" by Acting Commander Rogers of the Honorable Company's Brig of War Euphrates, and to request that you will be pleased to inform Government what course in your opinion should be pursued in this case.

- No. 26. *From Mr. A. S. Le Messurier, Advocate General, Bombay, dated 16th August, 1837, to the Chief Secretary to the Government.*

I have the honor of acknowledging the receipt of your letter of the 7th\* instant, communicating the sentiments of Government on the Rules and Proclamations relating to the Trade in slaves carried on in Arab boats and vessels therein alluded to, and also the receipt of your letter of the † 9th instant regarding the three African children taken out of the "Francis Warden" and "Futtel Kurreem," at Juddah, by Commander Rogers of the Hon'ble Company's Brig of War "Euphrates."

The two letters relating to the same subject,—I will answer them together.

With reference to the 3d paragraph of the letter of the first date, I have herewith forwarded for the approval of Government the draft of an Act to empower others than those mentioned in the 5th Geo. 4th, Chap. 118, Sec. 43, to make seizures of vessels for a breach of the slave laws.

The draft proposes to give this power to the commander of the vessels of the Indian Navy, which if they possessed, would do more, I think, to put an end to the

\* No. 6 of this Appendix.

† No. 25 *Supra*.

traffic than any measures that have yet hitherto been adopted for the purpose. All vessels, sailing under the British Flag, (though armed and navigated by foreigners) and which *now* are liable to seizure as being clothed with the British character, enjoying the privileges and benefit of British protection, and consequently subject to the inconveniences and penalties attaching to a breach of the British Laws, would then under the proposed enactment be within the reach and power of the Company's vessels: and with the conjoint efforts of the Imaum of Muscat and of the other Chiefs in the Red Sea and Persian Gulph, co-operating in the measure, the ports and shores of those countries would in a very short time, I should think, be cleared of all its slaves.

With this power Captain Rogers might have seized the "Francis Warden" and "Futty Kurreem" for piratically carrying slaves on the high seas, and have brought them to Bombay, and had them condemned in the Vice Admiralty Court.

From the omission in the Act, as the law now stands, if an Arab vessel were to come into Bombay harbour with a cargo of slaves for sale, the Magistrate, it is true, might arrest the individuals on board for the *crime* of slave-dealing, with a view to their ultimate prosecution and punishment: but (unless there was a King's vessel here) there would be no authority in the place to seize and *prosecute* the vessel for the purpose of condemning her and her slaves.

The draft Act proposes to supply the defects of the Acts, and besides the Commanders of the Company's vessels, to invest every Officer of Customs in the service of the East India Company, and every person who may be deputed by Government, with the power of making seizures; which will therefore enable seizures to be under at all subordinate ports and places which now cannot be done by any local authority there.

Agreeably to the 4th para. of your letter of the 7th, I have altered the Proclamation; and I have likewise inserted a clause (subject to the approval of Government) to notify the seizure and condemnation, that would take place, of all vessels found engaged in the Trade,—a notification calculated to alarm the Slave Merchants (from the prospect of a certain and immediate loss of property) more than the terrors of a distant prosecution and punishment of their persons, which in practice would be found could reach only to a very few.

With reference to the 5th paragraph of your letter of the 7th it appears to me that until the proposed Act is passed by the Supreme Government, the promulgation of any Port Regulations to be useful will be premature. They, as well as the Proclamation as far as regards the announcement of seizures, would be nugatory, and mere empty sounds and threats. I would therefore propose that the framing of any Regulations should be delayed till after the passing of the Act, when a complete set may then be drawn up.

With respect to the 6th paragraph of your letter of the 7th,—being of opinion as already expressed in my last letter on this subject, that the local Courts must be guided by the Act of Parliament in all cases of importation and exportation of slaves to and from the subordinate ports out of the jurisdiction of the Supreme Court, any Regulations for their further guidance,—seem to me to be unnecessary. For slavery in the interior within the Zillahs the Regulations provide; but for the importation of slaves *by sea* into their ports, the local Courts must adopt the Provisions and Regulations of the Act of Parliament, and punish according thereto. They cannot try the offences under the 10th Sec. of the 5th Geo. 4th Chap. 113, (slave piracies) for want of an Admiralty jurisdiction; nor do I think they need

ever try any case ; for as there never can be an importation of slaves by sea into the subordinate ports without involving in it also the previous carrying off slaves on the high seas, no case could occur, as far as it strikes me, which the local Courts could take cognizance of which could not be tried in Bombay in the Supreme Court under the Admiralty jurisdiction for the higher offence of slave-piracy. So that in practice the jurisdiction of the local Courts might not be found necessary to be called into exercise,—the minor offence too merging in the higher.

The power of seizing vessels and slaves at subordinate ports, the local authorities do not possess, as already intimated ; but the power, if given, proposed by the Act, will be the only really effectual method of suppressing the traffic ; and *that* without the power, all other attempts, I conceive, will be vain. Regulations and Proclamations can only notify and make public the penalties incidental to it, and prosecutions reach and alarm only a few ; but the seizing the property itself embarked in it will be cutting up the Trade entirely

With these observations, I would recommend that the letter to the address of the Resident in the Persian Gulph, which has been sent for my perusal and alteration, if necessary, should not be forwarded till it is seen whether the proposed Act will be passed by the Supreme Government ; when in the event of its being passed, the letter (should it then be deemed requisite) may be sent to me for revision.

Adverting to your letter of the 9th date, requesting my opinion as to the course to be pursued with regard to the three African children brought to Juddah,—had the vessels, out of which these children were taken, been seized under lawful authority, the course conformably to the Act of Parliament would in such case have been on the condemnation of the vessels, and three slave children as forfeitures of the crown ; and their enlistment either in the Military or Sea service, or their being bound out as apprentices. But the only course *now* I think is for Government to employ them in such ways as shall be thought most beneficial for the children,—without they are returned to their country. Being now on British ground they are free. I am not informed of their ages ; but if old enough, their consent will be necessary to any service in which it may be proposed to employ them.

*Draft of a proposed Act, referred to in the preceding letter, enclosed in above.*

Be it enacted, that all ships, vessels, boats, slaves, or persons treated, dealt with, carried, kept, or detained as slaves, and all goods and effects that may become forfeited under the Act of 5 George 4 Chap. 113, entitled an Act to amend and consolidate the laws relating to the abolition of the Slave Trade, shall and may within the limits of the East India Company's Charter, be seized by any Officer of Customs in the service of the said Company, or by the Commanders or Officers of any of the ships or vessels belonging to the said Company's Indian Navy ; and moreover it shall and may be lawful for all Governors of any of the Territories, Settlements, Forts, or Factories, in the East Indies, belonging to, or under the Government of the said Company, and for all persons deputed and authorized by any such Governor, to seize and prosecute all ships, vessels, boats, slaves, or persons treated, dealt with, carried, kept, or detained as slaves, and all goods and effects whatsoever that shall or may become forfeited for any offence under the said Act.

And be it further enacted, that all persons authorized to make seizures under this Act shall, in making and prosecuting such seizures, have the like benefit and

protection as are given by the said 5th George 4th to all persons authorized to make seizures under that Act.

### PROCLAMATION, ENCLOSED IN ABOVE.

The Governor in Council of Bombay,—having reason to believe that the traffic in slaves is carried on to a considerable extent by persons in Arab boats and vessels, from the ports in the Red Sea and Persian Gulph and other parts importing slaves of both sexes, and of various ages into the port of Bombay and other ports and places subordinate to the Presidency of Bombay, and having determined to use every exertion to suppress the nefarious traffic so disgraceful to humanity,—hereby notifies and proclaims that all persons, found guilty of such practises, or in any other manner offending against the laws for the abolition of the Slave Trade, shall be apprehended and prosecuted with the utmost rigour, and severely punished as the law directs. And the boats or vessels employed in the Trade, together with the slaves, and all the goods and property that may be found on board, shall be seized, and immediate steps taken for their condemnation and forfeiture, and the liberation of the slaves themselves. And to encourage the discovery of offenders, a reward is held out by the Act of Parliament of a moiety of the penalty of £100 sterling for each slave to any person who shall inform and sue and prosecute for the same. But as a further encouragement to discovery, the Governor in Council of Bombay hereby notifies and proclaims that a reward of rupees shall be paid by Government to all persons who shall give information, which shall lead to the apprehension and conviction of any offender, or to the seizure and condemnation of any vessel engaged in the Trade.

*From the Chief Secretary to Government of Bombay to the  
Acting Assistant in charge of the Bushire Residency, dated  
30th October, 1837.* No. 27.

I am directed by the Right Honorable the Governor in Council to transmit to you copy of the Treaty concluded By Captain Moresby, of His Majesty's ship Menai, with His Highness the Imaum of Muscat, on the 29th August 1832, prohibiting within certain limits the Slave Trade.

2. In forwarding this document the Governor in Council instructs me to request that you will endeavor to prevail on His Highness to extend the above Treaty so as to include in its provision the Provinces of Cutch and Kattywar. At present vessels engaged in the Slave Trade are only liable to seizure if found "to the Eastward of a line drawn from Cape Delgado, passing East of Socotra, and on to Diu Head, the Western point of the Gulph of Cambay."

3. The Governor in Council does not however think this sufficient. It might, he is of opinion, be very difficult for the British power to assume generally the right of detaining and searching on the high seas, vessels which there is reason to suspect of being engaged in the Slave Trade; but there can be no objection, he conceives, to the exercise of this right over the vessels of Foreign Powers when



it is conceded by Treaty. You are therefore requested to endeavor to obtain from the Imaum the right of searching any vessels fitted out from his ports and open to the suspicion above mentioned.

4. Government are also desirous that the same privilege should be obtained from other Arabian Potentates, to whom we have access, and accordingly direct me to instruct you to take every opportunity for that purpose.

5. The Governor in Council is not inclined to confine you to any particular instructions for the attainment of the object in view; but is rather disposed to leave the supplying of the requisite details to your own good sense and activity.

No. 28. *From the Chief Secretary to Government of Bombay to the Secretary to the Government of India, Fort William, dated 30th October, 1837.*

1. From the Committee, dated 5th May, (a) with 3 enclosures:

2. Reply to, dated 7th June.

3. To the Advocate General. (c)

4. From the Committee, 13th June. (d)

5. To the Advocate General, 20th June. (e)

6. From ditto ditto, 27th June. (f)

7. To ditto, with 3 enclosures, 7th August. (g)

8. From ditto ditto, with ditto ditto, (h) 16th ditto.

I am directed by the Right Hon'ble the Governor in Council to transmit to you for the purpose of being laid before the Right Hon'ble the Governor General of India in Council copy of the correspondence enumerated in the margin, relating to the traffic in slaves supposed to be carried on to a considerable extent by persons in Arab boats and vessels from the port in the Red Sea, Persian Gulf and other parts, importing slaves of both sexes and of various ages, into Bombay and other ports and places subordinate thereto.

In submitting the above documents I am instructed to express the hope of Government that some Act, to the effect of the draft accompanying the Advocate General's letter of the 16th (i) August last, will meet the concurrence of His Lordship in Council and be passed into a Law by the Government of India.

With reference to the proposed draft of a letter to the Acting Resident in the Persian Gulf, forwarded for the opinion of the Advocate General, with my communication of the 17th August last, I am instructed to state for the information of His Lordship in Council that a letter omitting the two first paragraphs, has been transmitted to that Officer, a copy of which is enclosed.

In conclusion I am directed to add that the Right Hon'ble the Governor in Council concurs in the opinion expressed by the Advocate General of the propriety of withholding the promulgation of any Proclamation, until this Government is advised of the nature of the Act, which the Supreme Government may be pleased to pass into a Law.

(a) See No. 1 *Supra*.

(c) See No. 4 *idem*.

(e) Not printed.

(g) See No. 6 *idem*.

(b) Not printed.

(d) *idem*.

(f) See No. 5 *Supra*.

(h) See No. 28, of this Appendix.

(i) See No. 26 *Supra*

*From the Superintendent of the Indian Navy to the President and Governor in Council, dated 30th September, 1837.* No. 29.

I beg to forward a letter from Acting Commander Rogers, and as I do not exactly understand the import of letter of the Advocate General which accompanied Mr. Chief Secretary Wathen's letter under date the 28th August last, I would beg to be informed how the Commander of a Vessel of War should act on falling in with Ships under English colors, which may have slaves on board.

*From the Acting Commander Hon'ble Company's Sloop of War Amherst to the Superintendent of the Indian Navy, dated 29th September, 1837.* No. 30.

As the Hon'ble Company's Sloop of War "Amherst" under my command is fitting out for the Persian Gulf, where she is likely to fall in with English vessels having persons on board similarly situated to those I thought it my duty to take out of the ships "Francis Warden" and "Futtel Kurreem" and send to the Presidency,—whilst those vessels were lying in Judda Harbour on the 28th of February last, as stated in my letter to your address, dated Judda, March 10th, 1837, I respectfully solicit you will be pleased to inform me in what way I am to act should I again meet with vessels similarly situated to those named above.

*From the Chief Secretary to Government of Bombay to the Advocate General, dated 8th November, 1837.* No. 31.

I am directed by the Right Honorable the Governor in Council to transmit to you copy of a letter from the Superintendent of the Indian Navy, dated the 30th September last, forwarding one from Acting Commander Rogers, and to request that you will favor Government with your opinion as to how the Commander of a Vessel of War should act on falling in with ships under English Colors which may have slaves on board.

*From Mr. Advocate General A. S. Le Messurier to the Secretary to Government of Bombay, dated 21st November, 1837.* No. 32.

I have the honor to acknowledge the receipt of your letter of the 8th instant, with its enclosures, requesting my opinion as to how the Commander of a Vessel of War (of the Company's Navy I presume) should act on falling in with ships under English Colors which may have slaves on board.

Referring to the opinion I formerly gave (letter dated 16th August last,)\* on the subject of seizing slave vessels, I would observe, that if the Supreme Government pass the Act proposed for empowering the vessels of the Company's Navy to make seizure of ships for a breach of the slave laws, no very long period can elapse before the power will be possessed, but that should it refuse to do so it will, I conceive, be a virtual declaration on the part of the Government of India that the Company's vessel should not interfere in the matter; and I therefore would recommend in the meantime the Commander of any of the Company's vessel not to act at all in the business. The British Legislature by omitting to give the power of seizure to authorities in India under the Company seems to have proceeded on some grounds of policy in so doing, especially as by the late Charter Act it has expressly recognized and sanctioned the existence and continuance of slavery within the British Territories in India.

No. 33. *Minute by the Right Honorable the Governor, subscribed to by the Honorable Mr. Farish.*

Sir Charles Malcolm should be instructed agreeably to the Advocate General's opinion.

I must however observe, though not for communication, that I do not concur in Mr. Le Messurier's concluding argument.

"Slavery" and a "Trade in Slaves" are two very distinct things, and the toleration which (for a season) the Charter Act extends to the former implies no sanction whatever of the latter.

I believe we have already prest on the Government of India the passing of an Act to authorize the seizure of Slave Trading Vessels on the high seas.

*Memorandum by the Political Secretary, dated 7th December.*

I respectfully suggest that copy of the further proceedings on this subject be forwarded to the Government of India for consideration.

(Signed) J. P. WILLOUGHBY, *Secy. to Govt.*

No. 34. *From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 8th December, 1837.*

In reply to your letter of the 30th September last,† with its enclosure, soliciting information as to how the Commander of a Company's vessel of War should act on falling in with ships under English colors, which may have slaves on board, I am directed by the Right Honorable the Governor in Council to transmit to you the accompanying copy of a communication from the Advocate General, dated the

\* See No. 26 of this Appendix.

† — No. 29 *idem*.

21st ultimo, submitting his sentiments on the subject, and to request that you will be pleased forthwith to issue instructions in conformity with the opinion expressed by that Officer.

*From the Secretary to the Government of Bombay to the Secretary* No. 35.  
*to the Governor General of India, dated 26th December, 1837.*

With reference to Mr. Chief Secretary Wathen's letter dated 30th October last, relating to the traffic in slaves supposed to be carried on to a considerable extent by persons in Arab boats and vessels from the Ports in the Red Sea and the Persian Gulph, I am directed by the Right Honorable the Governor in Council to transmit to you for the purpose of being submitted for the consideration of the Right Honorable the Governor General of India Extracts from the proceedings of this Government regarding three slave boys taken out of two vessels at Judda under English Colors, namely, the Francis Warden and Futtel Kurreem, by Acting Commander Rogers of the Honorable Company's Brig of War Euphrates.

*From the Secretary to the Government of India, Fort William, to* No. 36.  
*Mr. J. P. Willoughby, Secretary to Government of Bombay,*  
*dated 24th January, 1838.*

The Honorable the President in Council having observed in the duplicate copy of a Communication made to the Governor General under date the 26th ultimo, No. 2422, that three slave boys taken from ships sailing under British Colors were made over to Mahomedan families under an engagement that they should be provided with food and clothing, I am directed to request information as to the nature of these engagements. The Draft of Act forwarded from Bombay, connected with this subject, being now under consideration in the Legislative Council, it appears to be of importance that the Government should be informed of the means of providing for persons redeemed from Slavery that may be available and the manner of using them.

2. The President in Council particularly desires to know, whether there is any fixed limit to the period of the apprenticeship in which these boys have been bound, and what means have been taken to secure their freedom after its expiration or when the boys may come of age.

No 37. *From the Secretary to Government of Bombay to the Secretary to the Government of India, Fort William, dated 28th February, 1838.*

I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter dated the 24th ultimo, requesting information as to the nature of the engagement under which the three slave boys taken out of the ships "Francis Warden" and "Futtel Kurreem" sailing under British Colors, were made over to Mahomedan families, and to transmit to you for the purpose of being laid before the Honorable the President in Council, copies of the agreements entered into by the parties to whose charge the boys in question were made over.

No. 38. *From Mr. G. L. Elliot, Agent to the Governor of Bombay, at Surat, to the Secretary to the Government of Bombay, dated 4th December, 1840.*

I have the honor to acknowledge the receipt of Mr. Chief Secretary Reid's letter No. 2244, dated the 15th of October last, requesting me to forward a statement shewing the number of slaves imported into Demaun and Dieu during the last three years, and the average progressive increase or decrease in number during each year.

2. In reply I beg to report for the information of the Honorable the Governor in Council that I have used my utmost endeavours to obtain the required information. Such as I have received, I fear cannot be depended on for its accuracy, and even if we were to apply to the Portuguese authorities, I very much doubt whether they would afford an account that could be implicitly relied upon.

3. The following information,—I have collected from an individual well acquainted with the resources of Demaun and Dieu,—that for the last two or three years there have been very few slaves imported into these places, (which is to be attributed in a great measure to the vigilance of the British Government,) though in former years the number of slaves imported into the three Portuguese Settlements of Goa, Demaun, and Dieu averaged from 250 to 300 per annum.

4. There were some vessels last year, the property of one Momajee Wullejee, which were bringing slaves from Mozambique to Demaun and other Portuguese Ports, but which were intercepted by Her Majesty's Ships.

5. During this year no ship has arrived at Demaun from Mozambique. It appears that the number of slaves imported in the years 1837-1838-39, into Demaun, were as follow :

In 1837 from 10 to 15.

1838 „ 8 „ 10.

1839 „ 5 „ 7.

Into Goa and Dieu during these years from 15 to 20.

6. In reference to the 2d para. of the communication now under reply, I am not prepared to propose any measures beyond those already in operation for preventing the importation of slaves into the Portuguese Territories.

*From the Secretary to the Government of Bombay to the Secretary  
to the Government of India, Political Department, dated 31st  
December, 1840.*

With reference to Mr. Chief Secretary Reid's letter, dated the 15th October last, regarding the measures adopted by this Government for the suppression of the Slave Trade, I am directed to transmit to you for the information of the Right Honorable the Governor General of India in Council, copy of a communication from the Agent for the Governor at Surat, dated the 4th instant, reporting the number of slaves imported into the Portuguese Settlements in India during the last three years.

2. In forwarding this communication I am desired to observe, that although the Honorable the Governor in Council is not of opinion that the information therein contained can be entirely relied upon, still it is satisfactory to observe that the number of slaves supposed to have been recently imported into the Portuguese Settlements in India, is considerably diminished.



## APPENDIX XIX.

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### GULF SLAVERY.

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- No. 1. Letter dated (24th September, 1837,) from Captain Hennell, officiating Resident Persian Gulf, to the Secretary to the Government, Bombay. Encloses statement of Abdullah Ben Iwaz alleging an extensive abduction of females from the Barbarah Coast by the Joasmee Arabs.
- No. 2. Statement of Abdullah Ben Iwaz, enclosed in the above.
- No. 3. Letter (dated the 9th of December, 1837,) from the Secretary Bombay Government to the Officiating Resident of the Persian Gulf.
- No. 4. Letter (dated the 10th of January 1838), from the Officiating Resident to the Secretary of the Bombay Government.
- No. 5. Letter (dated 6th of March 1838) from the Secretary to the Bombay Government to the Officiating Resident.
- No. 6. Letter (dated 28th February 1838), from Mr T. Mackenzie, acting Agent in charge of the Residency in the Persian Gulf.
- No. 7. Extract from a translated letter of the Agent at Muscat to the Acting Assistant, enclosed in the above.
- No. 8. Extract from a translated letter from the Agent at Shagur, to the Acting Assistant, enclosed in No. 6.
- No. 9. Extract from a letter from the Agent at Muscat to the same, enclosed in the same.
- No. 10. Letter (dated 16th April, 1838,) from the Secretary to Government to the officiating Resident.
- No. 11. Letter (dated 28th April, 1838,) from the officiating Resident to the Secretary to the Bombay of Government.
- No. 12. Copy of a Treaty with Sheikh Sultan Bin Suggur, enclosed in the above.
- No. 13. Letter (11th of July, 1838,) from the Secretary Bombay Government to the officiating Resident.
- No. 14. Letter (dated 3rd September, 1838,) from the Resident (Captain Hennell) to Secretary Bombay Government.
- No. 15. Letter (dated 12th December, 1838,) from the Secretary Bombay Government to the Resident.
- No. 16. Letter (dated 19th July, 1839,) from the Resident, to the Secretary Bombay Government,—enclosing copy of Agreement entered into by the Arab Chiefs.
- No. 17. Letter (dated 21st October, 1839,) from the Secretary Bombay Government to the Resident.





## APPENDIX XIX.

*From Captain S. Hennell, Officiating Resident in the Persian Gulf* No. 1.  
*to the Secretary to Government Bombay, dated 24th September,*  
 1837.

Enclosed I have the honor to forward for the information of the Right Honorable the Governor in Council, the copy of a statement made to me by an individual named Abdullah ben Iwuz (who professes to be a person of some rank from the African Coast) regarding the alleged outrageous proceedings of the crews of some Joasmee boats, in having carried off from Barbarah two hundred and thirty-three young girls, under the pretence of marriage, and subsequently disposing of them as slaves upon the return of their vessels to the Gulf.

2. Upon receiving this declaration I sent for Mahomed ben Iwuz, the agent of Sheik Sultan ben Suggur, and having brought to his notice the 9th Article of our Treaty with the pacificated Arabs, enquired whether he could afford any explanation upon the subject of Sheik Abdullah's complaint. In reply he denounced the whole statement, both with reference to the abduction of the girls, and the robbery of the complainant on his voyage to Rasel Khymah as an unqualified falsehood. He said he did not deny the fact of slaves having been brought up from the Coast of Barbarah, but he declared that they had been regularly purchased from two Tribes in that neighbourhood at war with each other, who were in the habit of selling all the prisoners that fell into their hands. He concluded by saying that Abdullah ben Iwuz was an imposter without any letters or credentials, and that had Sheik Sultan been willing to make him a small present, he would have taken his departure back to Muscat and said nothing further upon the subject. He (the agent) was however quite sure that if the complainant's statement could be proved to be founded on fact, that his superior the Joasmee Chief, would do any thing that was just.

3. Although I do not think that the subjects and dependents of the Sheik of Rasel Khymah are likely to be very scrupulous as to the means by which they obtain their slaves, still the statement of Abdullah ben Iwuz appears to me in some respects exceedingly improbable. I am inclined to suspect that the unfortunate individuals mentioned in the 1st paragraph were made prisoners by one of the belligerent Tribes before adverted to; and actually sold by the victors to the Joasmees; and that Abdullah ben Iwuz being in some way connected with the defeated party had been instructed by the friends of the captives to obtain if possible their liberation from bondage; this however is mere conjecture, but upon receipt of replies to the communications I have addressed to the Agent at Shargah and Muscat, I trust that

the real facts of the case may eventually be elicited. In the meanwhile I have informed Abdullah ben Iwuz, that his statement would be laid before the Government, and that in the event of the robbery alleged to have been committed by the crew of the boat which conveyed him from Muscat being satisfactorily traced to any of the subjects of Sheik Sultan ben Suggur, steps would be taken to obtain either the restitution of his property or the payment of its value.

No. 2 *Statement of Sheik Abdullah ben Iwuz calling himself a Native of the Coast of Barbarah, made to the Officiating Resident in the Persian Gulf, 23d September, 1837.*

That about four months ago while he was on a visit to Muscat for the arrangement of some commercial affairs between his people and the Imaum's subjects, he received letters from Barbarah complaining that the Joasmees had carried off from that place two hundred and thirty-three unmarried girls, and having brought them up the Gulf had there disposed of them as slaves. These communications further directed him to proceed to Rasel Khymah, and in the event of Sheik Sultan ben Suggur not liberating the captives, he was to go on to Bushire and lay the whole of the circumstances before the Resident; that in pursuance of these instructions he had embarked in a Zaab boat with a crew of seven men commanded by a man named Khumees, said to be bound for Rasel Khymah. In the course of the voyage, questions were put to him as to his object in visiting the Joasmees, which he was imprudent enough to detail at length: the consequence was that the crew at first proposed to put him to death, but at the recommendation of the Nakhoda they contented themselves with stripping him of his property and letters, and then putting him on shore in the neighbourhood of Ras Jebbl. The articles taken from him consisted of those mentioned in the margin.\* The deponent continued his statement by saying that having

\* Matchlock Sword, Dagger, 1 Pistol, and a basket of Clothes.

procured a passage to Lingah he proceeded over from that Port to Rasel Khymah, and made his complaint to Sheik Sultan ben Suggur, who told him to have patience and he would afford him redress. In the meanwhile two individuals belonging to Rasel Khymah and Shargah, shipped off the greater part of the girls, who had been kidnapped on board a Bugla and Bateel, and sent them to Koweet, Bushire, and Bussorah for sale; on this being reported to their Chief he immediately ordered a list to be made out of the individuals in whose possession these unfortunate persons had been, and under the pretence of affording compensation for the irregular conduct of his people, he made them pay him a fine of ten dollars upon each slave which he said was to be given to the complainant. This money however had no sooner been collected than the Sheik offered the complainant two hundred crowns to say nothing further on the subject, which offer was refused. The deponent further states that not the slightest attention was paid to his complaint regarding the treatment he had experienced from the people of the boat, by the Joasmees Chief. At last finding he could get no redress from Sheik Sultan, he proceeded on to Shargah and laid his case before Moollah Hoossein, the Agent there, who promised to write to the Resident upon the subject.

Upon a cross-examination, the deponent at once acknowledged that the Joasmees had not carried off the girls from Barbarah by force, but that having persuaded them to come on board under a promise of making them their wives, they had, on their arrival in the Gulf, disposed of them as slaves. The deponent further stated that the Joasmees had bribed a native of Barbarah named Mutter to write a letter to Sheik Sultan ben Suggur to the effect,—that the girls carried away were all regularly purchased: but that when the inhabitants of the place found out how they had been deceived and their relations made slaves, this person was immediately put to death by them for his treachery. The deponent concluded his statement by requesting that the Resident would take measures for obtaining the liberation of the individuals who had been carried away from their native country in this treacherous and shameful manner.

*From the Secretary to Government of Bombay, to Captain S. Hennell, Acting Resident in the Persian Gulf, Bushire, dated 9th December, 1837.* No. 3.

With reference to your letter dated the 24th September last No. 84 with enclosure, regarding the abduction of a number of girls from the coast of Barbarah by the Joasmees and of their having been sold as slaves, I am directed to acquaint you that the Right Honorable the Governor in Council will await your further report on the subject. In the mean time however the Governor in Council requests, that you will favor Government with your opinion as to the practicability or otherwise of inducing His Highness the Imaum of Muscat and Arab Chiefs in the Gulf, to prohibit the traffic in slaves altogether.

*From Captain S. Hennell, Acting Resident in the Persian Gulf, to the Secretary to Government of Bombay, dated 10th January, 1838.* No. 4.

I have the honor to acknowledge the receipt of your letter, No. 2303\* in this Department, under date the 9th ultimo, upon the subject of the alleged abduction of a number of girls from the Coast of Barbarah by the Joasmees (as reported by me in a former communication) and at the same time conveying the desire of the Right Honorable the Governor in Council that I should submit my opinion as to the practicability or otherwise of inducing His Highness the Imaum of Muscat and the Arab Chiefs in the Gulf to prohibit the traffic in slaves altogether.

\* Vide No. 3 *Supra*.

2. In reply, I have the honor to report for the information of the Right Honorable the Governor in Council that not having yet received any answers to the enquiries I directed to be instituted by the Agents at Shargah and Muscat into the truth or falsehood of the allegations made by Mahomed ben Iwuz (the professed Barbarah Agent) regarding the proceedings of the Joasmees on the African Coast, it is not in my power at present to afford the Government satisfactory information upon that point. I trust however, that upon my arrival at Muscat, when returning to Bushire, I shall be enabled to make a full report upon the subject.

3. With reference to the latter part of your communication, it is with much diffidence I state, for the information of the Right Hon'ble the Governor in Council, that after much and deliberate consideration of the question, I am reluctantly led to the conclusion that, in the first place, it would be impracticable to induce His Highness the Imaum of Muscat, and the Arab Chiefs in the Gulf, to put an end to the traffic in slaves without such a large pecuniary sacrifice being made on the part of the British Government, as would most likely be considered altogether inexpedient; and in the second place, that were such a sacrifice made, the humane and philanthropic objects of the Right Hon'ble the Governor in Council would still be defeated by further impediments and difficulties, for which I fear no remedy could be found.

4. Of the Chief in the Persian Gulf with whom (unless as a matter of expediency alone) we could assume to ourselves any right to interfere directly in the question of the Slave Trade, the only ones are those who are members of the General Treaty negotiated in 1820 by Major General Sir W. G. Keir, namely, the Joasmee Bemyas and Uttoobee Shaiks. The ninth Article in the document declares "the carrying off (literally plundering) of slaves, men women and children, from the Coasts of Africa or elsewhere, and the transporting (lit. embarking) them in vessels, is plunder and piracy, and the friendly Arabs shall do nothing of this nature (lit. shall not agree to this thing)". This declaration, however strongly the English translation may appear expressed, was considered so ambiguous that it was not acted upon by the British Officer who was appointed to the superintendence of our political relations in the Gulf, shortly after the Treaty had been signed by the respective Chiefs before referred to. Since that date a period of seventeen years has passed over without the question having been agitated, and thus the several parties concerned have acquired a sort of prescriptive right to consider that the ninth Article was inserted solely with the view of guarding against the forcible carrying away of individuals for the purpose of selling them as slaves, and not meant to prohibit altogether a traffic, which is not only in accordance with the letter and spirit of their religion, but which long continuance and custom have rendered almost indispensable to their domestic comfort.

5. Assuming however, that the ninth Article of the document before referred to, bears the interpretation best suited to our views and policy, and that our right to act upon it, although allowed to lie so long in abeyance, is nevertheless liable to be called into operation whenever we may consider it expedient to do so, still it must be borne in recollection, that even on the Arabian side of the Persian Gulf alone neither His Highness the Imam nor the Chiefs of Sohar Kateef or Kowlet are parties to this treaty, and therefore their consent to a total prohibition of the traffic in our fellow creatures could only be obtained by means of negotiation, and the offer of such advantages as would, in their estimation, compensate for the loss they sustained in the surrender of a practice uniting both profit and convenience.

I believe myself that a great proportion of the income of His Highness the Imam is drawn from this source, and I understand he has declared, that in consequence of his having allowed himself to enter into the agreement with Captain Morseby of the Royal Navy, engaging to prohibit the Slave Trade with European Powers within certain limits, he has sustained a diminution in his revenues to the extent of one hundred thousand Crowns, and that he is resolute in his determination not to afford any further concessions upon this point. But even admitting that either through our influence or the payment of an annual pecuniary compensation, the parties alluded to consented to enter into an engagement for the total suppression of the Slave Trade, I fear that the attainment of the humane objects contemplated by the Government would be still as distant as before. My reason for entertaining this opinion is that the effect of the prohibition, if it could be enforced in the Ports on the Arabian side of the Gulf, would be to throw the whole of this nefarious traffic into the hands of the inhabitants of Bussorah and Muhumrah (subjects of the Ottoman Porte) and those of Bushire, Congoon, Aseeloo and Singah, the principal seaports of Persia. It is unnecessary to observe, that, in the present state of our relations with both these Governments no interdiction of the traffic in question could be carried into effect, unless under the express sanction of their respective authorities. Taking however into consideration that the sale and purchase of slaves is not only permitted by the tenets of their faith, but that the discontinuance would greatly abridge what habit and custom have led their subjects to value as a domestic convenience, I venture to think that, for some time at least, it is hopeless to look for such a sanction being afforded. In addition to these impediments I may also advert to the probability, that were the inhabitants in the Gulf to relinquish the traffic at present carried on in slaves, the place of their vessels would be immediately occupied by those from the Red Sea, the Coasts of Mekran, Scinde, &c. It may at the same time be reasonably anticipated, that even those Powers, whose consent to our views, may be exacted or purchased, will exhibit little more than a nominal adherence to their engagements, unless compelled to do so by our own maritime force. This, however, would involve the necessity of greatly augmenting the number of Vessels of War employed in those seas, and in all probability be attended with the constant risk of entangling us in disputes with the local Governments dependent upon Persia, Turkey and Egypt.

6. I cannot conclude my observations without adverting to the opinions held upon this subject by the late Captain Macleod, when Resident in the Persian Gulf, and as these are in a great measure corroborative of my own views, I now respectfully submit an extract from a dispatch addressed by that Officer to the Government, dated the 27th February, 1823. After alluding to the wording of the ninth Article of our Treaty with the pacificated Arabs, Captain Macleod continues as follows:

“ But in whatever sense the words of the Treaty may be understood by either party I am convinced that our utmost endeavours to abolish the Slave Trade amongst the parties to the Treaty will be ineffectual, as long as the other powers of the Gulf persist in it. We may perhaps put a stop to the carrying off of slaves, but their purchase and transport we can never prevent. The slaves will be disguised and concealed in a thousand ways, so that it will be impossible for us to detect them: and I doubt whether more harm than good might not be done to the cause of humanity, by stopping boats and searching them for slaves, because it would in all cases occasion such disgust and offence as would involve a great risk of a renewal of hostilities.”

\* The slaves are frequently brought direct from the African Coast.

I do not believe that any of the parties to the Treaty do carry off slaves\*—all those they possess being purchased at Muscat and other places. But at all events it would be difficult,—even in the former case to detect them,—in the latter next to impossible: and with all our efforts we shall find it impracticable to put a stop to a traffic which is sanctioned by their religion and by immemorial custom, unless it were relinquished by the common consent of the whole of the Chiefs of the Gulf."

"Convinced as I am of the inefficacy of this Article of the Treaty which has not yet been acted upon, and of the dangers of attempting to carry it into effect,—I am compelled with much reluctance to recommend,—that it should not be enforced except in very glaring cases,—or at least that its sense should be considered as confined to the carrying off of slaves, and not including their purchase or transport."

† My own personal observation fully confirms this statement. S. H.

"It † is gratifying to humanity to know, that slaves are not only extremely well treated and protected by their Arab Masters, but that they even enjoy a very considerable degree of power and influence. I remarked that they were every where the stoutest and best fed men, and that they seemed happy and comfortable. I must not however omit to mention an exception which occurred at Bahrein, where two slaves sought refuge on board the *Ternate* from the cruelty, as they said of their master. They were not however received, and we had no means of ascertaining the merits of the case. Much as it is to be desired, that this horrid traffic should be abandoned throughout the world, we must, I fear, confess that the cruel treatment of slaves has been the reproach rather of European than of Eastern nations."

No. 5. *From the Secretary to Government, of Bombay to the Resident in the Persian Gulf, dated 6th March, 1838.*

I am directed to acknowledge the receipt of your letter dated the 10th ultimo, on the subject of the alleged abduction of a number of girls from the Coast of Barbarah by the Joasmees, and stating your sentiments as to the practicability of inducing His Highness the Imaum of Muscat and the Arab Chiefs in the Gulf to prohibit the traffic in slaves altogether,—and to communicate to you the following observations and instructions thereon.

2. Although the Governor in Council entertains little hope of putting an end to this execrable traffic in the Gulf, yet he desires me to request that you will, as far as may be in your power, oppose any case of enormity that falls within your notice, and that you will on all occasions express to the Arab Chiefs, the detestation with which the British Government, behold in the Slave Trade, the unoffending inhabitants of any country forcibly taken from their homes and separated for ever from parents, connexions and people, and carried off to be sold as slaves to strangers in a distant land.

3. The Governor in Council will await your further report on the subject as stated in my letter of the 9th December last.

*From the Acting Assistant, in charge of the Residency in the Persian Gulf, to the Secretary to Government, of Bombay, dated 28th February, 1838.* No. 8.

In advertence to Captain Hennell's letter dated 24th September, No. 84 of 1837, in this Department, relative to a complaint by a person named Abdullah ben Awuz, of a number of young women having been carried away from the Coast of Barbarah by traders to that quarter of the Joasmees tribe, and of his having been robbed and maltreated himself while proceeding to recover, if possible, those unfortunate individuals,—I have the honor to forward for the information of the Right Hon'ble the Governor in Council the accompanying translated extracts of letters from the Government Agents at Muscat and Shargah.

2. The accusation of Abdullah Awuz is principally, if not entirely, directed against the Joasmees, both as regards the abduction of the young women and the maltreatment of himself. But as far as has yet been ascertained that tribe either happens to be innocent of the offences with which it is charged or means have been found of concealing the truth from the Government Agent.

3. From the documents now forwarded, however, it would appear evident that a disgraceful traffic in young females, probably both by stealth and purchase, is carried on from the Barbarah Coast, not only to the territories of the Joasmees but every port of consequence in the Persian Gulf.

4. In enclosure 3 evidence is adduced of an act, which, if its truth could be satisfactorily established, the 9th Article of the Treaty with the pacificated Arabs would, I conceive, warrant its being viewed and treated as an act of piracy. But the Chief of Koweet, against whose subjects the information is furnished, is not a member of that Treaty.

5. I am not well aware of the state of those unfortunate creatures previous to their becoming the subjects of this nefarious traffic, but the result of some enquiry inclines me to believe, that the Soomalies from whom a great part of the supply seems to be drawn, are a free people, and cannot become slaves without violence. Consequently those conveyed to the Persian Gulf must be either kidnapped or purchased while prisoners of war. A practice, to which even in the eyes of the generality of Mahomedans a degree of moral turpitude attaches, which, if insisted on, would tend considerably to diminish the evil. And I conceive that no means, which can with propriety be used, ought to be omitted of circumscribing, and if possible, abolishing a traffic, in itself most offensive, and probably rendered doubly grievous, from its proving an incentive to war and all its concomitant miseries.

6. No communication has yet been addressed to any of the parties supposed to be implicated; as the subject appears to offer a favorable opportunity for introducing the question of abolishing all traffic in slaves on the part of the Arab Chiefs or those under their authority, as directed by Mr. Chief Secretary Wathen's letter of the 30th October last.



No. 7. *Translated Extract\* of a Letter from the Agent at Muscat to the Acting Assistant in charge of the Residency in the Persian Gulf, dated 1st Shabon or 30th November 1837.*

Relative to the acts of the Joasmees in the direction of Sowahil on the coast of Barbarah, I have made much enquiry; and I have heard that the Joasmees, the past season brought some young girls, Abyssinian and Soomalee, but it is reported that they purchased them with money. I made enquiries from some men from Singah and they said that they did bring four or five young girls from Soqmal. On the 26th Rujib a Bugarah from Shargah arrived, on board of which, were some friends, of whom I made enquiry. They replied that they did bring some of those young girls to Shargah, Raselkhymah and Ajman, but that they purchased them. Also the sons of Ali ben Atek went as passengers in the Bugla of Salimal Aweid, and there are with them four or five young girls from Soomal: but they did not sell them on the Oman Coast. They proceeded to Bussorah there to dispose of them. The Batil of Ben Faraj was also in their fleet. So far as I have been able to learn this affair is not unfounded, but is not true to the extent stated of two hundred and thirty-three young girls, apparently only 20 or 30.

No. 8. *Translated Extract\* of a Letter from the Agent at Shargah to the Acting Assistant in charge of the Residency in the Persian Gulf, dated 13th Ramazan or 12th December 1837.*

States, that during the last three months he has been endeavouring to procure information relative to the circumstances complained of by the person from Barbarah (Abdullah ben Awuz); but that as yet he has not been able to learn any thing of the matter, that he is not aware of any one of the name of Khamis, a subject of Sultan ben Suggar, who trades in the direction of Muscat; that there is a person named Salmeen ben Khamis, but that he is not a man who would be guilty of such an act (plundering Abdullah ben Awuz as stated by himself);—expresses his surprise that such a statement should have been made by Abdullah ben Awuz at Bushire as he (agent) was at Rasulkhymah at the time of his arrival and invited him to make known his complaints, but that he made no mention of the treatment he had been subjected to by Khamis,—only stating that during the last three years the subjects of Sultan ben Suggar and others beside from Batinah, &c. have been in the habit of trading in the direction of Barbarah and stealing women under the pretence of marriage and conveying them to their own country for sale; that it is true they are brought from that quarter for sale at Bussorah, Coast of the province of Fars, &c. but that those who do bring them assert that they are all Abyssinians; that it is difficult to distinguish between the two as the colour of the Abyssinian and Soomal is the same; that women are purchased at Barbarah, which country is not like other countries having forts, doors,

\* See *Supra*, No. 6.

&c. The Chiefs of that quarter also do not have custom houses, &c. nor know what may be imported or exported. About half a farsakh intervenes between their places (towns) and most of them are thieves and mischief makers. When traders visit that quarter they arrive at night and land their goods at night, so that no one knows what is brought by them. When they leave, in like manner they take their departure at night and no one knows what they carry along with them. It is stated that two women from Barbarah are now in Shargah and the remainder have been sent to Koit and Bussorah.

*Translated Extract\* of a Letter from the Agent at Muscat to the Acting Assistant in Charge of the Residency in the Persian Gulf, dated 28th Showal or 25th January, 1838.*

No. 9.

Relative to Abdoollah ben Awuz Soomalie,—he arrived on board of a Barhein Bugla on the 20th instant. He waited on me and reported the incidents that had befallen him. He came a second time and stated that some of the young women he is in search of were in Muscat, and requested permission to go and find them, which I granted him. In the course of a couple of days he returned and said that he had discovered one of the young women. I desired him to bring her that I might make enquiry relative to the affair: which being done she stated,—that she was a Soomalie and that she was from Barbarah; that one of the people of Soor called Alli ben Seid ben Isa stole her; that he was the navigator on board a vessel belonging to Koit commanded by an Abyssinian called Mahabool, who gave them permission to seize whomsoever they could; that she with seven others were carried away and conveyed first to Soor and afterwards to Muscat; that she was taken to the sons of Seid ben Isa and Amber Thalet, who discovered that she was a Soomalie and did not want her—afterwards that she was kept for sometime at Sidab (place near Muscat);—that another is in possession of Ahmed ben Seif ben Hlausel of Muttra, and is married to one of his servants;—and a third in the hands of the sister of Jawie in Muttra, who has been seen by Abul Nebbie Beloochee;—where the remainder she does not know. Abdoolah ben Iwuz having made enquiry regarding the one who was with the sister of Jawie was informed that she had been sold. The one in the hands of Ahmed ben seif still remains with him. I recommended Abdoolah ben Iwuz to remain in Muscat until the arrival of the Resident: but he said that the season would be over, and that between him and Captain Hennell there was an agreement. I myself made enquiry of people from Koit and they stated, that that boat was the property of Yacoob bin Ghanun Kaitee, and that she was commanded by his slave. Of those eight young women four were sold between Soor and Sobar, and the remaining four went to Koit, where they (the crew of the Bugla) were questioned about the affair, and they replied that they had purchased them with money.

\* See. *Supra*, No. 6.

No. 10.

*From the Secretary to Government of Bombay to the Officiating Resident in the Persian Gulf, dated 16th April, 1838.*

I am directed to acknowledge the receipt of Mackenzie's letter, dated the 28th\* February last, on the subject of the Slave Trade carried on at the ports in the Persian Gulf, and to inform you, that the Right Honorable the Governor in Council very much fears that little can be done to effect the suppression of this nefarious traffic, but that as long as a hope remains, Government are unwilling to abandon it. You are therefore requested to submit your opinion in detail on the points adverted to in the communication now acknowledged and at the same time suggest any measures which may occur to you as likely to mitigate the evil.

No. 11. *From Captain S. Hennell, Officiating Resident in the Persian Gulf to the Secretary to the Government of Bombay, dated 28th April, 1838.*

With reference to my letters to your address under date the 24th† September 1837, and 10th‡ January 1838, both in this department, I have the honor to report for the information of the Right Honorable the Governor in Council, that, the information, which my enquiries have elicited during my recent visits to Muscat and the Arabian Coast touching the complaint of a person named Abdoollah ben Iwuz of the abduction of a number of girls from the Coast of Barbara, all tends to confirm the opinion expressed by Mr. Mackenzie in the 2nd, 3rd, 4th and 5th paragraphs of his despatch No. 6 Political Department, dated the 28th February 1838.

2. Although unable to bring any positive or direct proof against the subjects of Shaik Sultan ben Suggur, still I am inclined to concur in the general opinion entertained in the Gulf, that instances of free persons being kidnapped and brought away for sale from the Coast of Barbara, do sometimes occur among the Joasmees. I therefore considered it my duty to introduce the subject, on the occasion of the interview held with their Chief on the 17th instant. After touching generally upon the complaint preferred against his subjects by Abduollah ben Iwuz, last year, I expressed, in the strongest possible terms, the indignation felt by the Government, on learning that such an infamous and nefarious practice had been carried on, although so expressly forbidden by the 9th Article of the Treaty subscribed by the independent Arabian Chieftains of the Gulf. The Shaik, after a general denial of the accusation and affirming that the subjects of His Highness the Imaum and those of Koweet, were the individuals principally concerned in this traffic, endeavoured to convince me that he was fully impressed with the wickedness and enormity of such proceeding, and went on to say that to prevent the possibility of any of his people participating in them, he had despatched his confidential Meerza to Zanzibar,

\* See *supra*. No. 6.

† See *idem*. No. 1.

‡ See *idem*. No. 4.

for the purpose of entering into arrangements with His Highness the Imaum of Muscat, to the effect,—that in future no vessels from the Joasmee Ports should be permitted to visit the African Coast without carrying a special written authority from himself,—that upon the arrival of such vessels in any of the possessions of the Imaum, His Highness or his locum tenens, should assign a fixed place for the residence of their crews during their stay,—and further, that upon their return to the Gulf, the Nakhoda of each boat would be required to produce a written document under the seal of His Highness, certifying that his crew had conducted themselves with peace and quietness and that none of his people had been guilty of stealing or surreptitiously carrying away slaves, either by force or fraud. The Shaik added, that to enforce these propositions, he had offered the Imaum full authority to punish to the utmost extent every one of his subjects who might be guilty of their infraction. I replied that this proof of the sincerity of his sentiments was satisfactory, and as it was now evident that we had both the same object in view, he could have no objection to afford his consent to any further arrangements which might tend to put an end to the atrocious practice complained of. I therefore recommended that he should concede to our Cruisers the right of searching and detaining his vessels upon the high seas, in all cases, where their crews were open to the suspicion of being engaged in the kidnapping of slaves, and at the same time to admit the further right of seizing and confiscating them in case these suspicions proved to be well founded. Upon the Shaik unhesitatingly expressing his acquiescence, I produced the agreement (of which the accompanying is a copy). After making his Moonshee read it aloud, he affixed his seal to two copies, one of which he retained himself, and the other is now deposited in the records of the Residency.

3. It will be observed by the Right Hon'ble the Governor in Council that the document above, referred to, does not in the slightest degree bind the Government or pledge it to any specific line of policy with reference to the Slave trade, while it is something gained towards a check, and may at a future period, form the basis of more general and comprehensive negotiations for the suppression of this detestable traffic.

4. In doing myself the honor to intimate that a similar agreement to the one above referred to has been signed by Shaik Rashid bin Humeed, Shaik Mukhtoom bin Butye and Shaik Khuleefa bin Shackboot, the Chiefs of Fjman, Debaye, and Aboothabee, and expressing a hope that the steps I have taken may be honored by the approval of the Right Hon'ble the Governor in Council,

I have honor to be, etc.

*Article of Agreement entered into by Shaik Sultan bin Suggur, No. 12.  
dated Shargah the 22d Muhurram A. H. 1254, or 17th April,  
A. D. 1838.*

In the event of vessels connected with my ports, or belonging to my subjects, coming under the suspicion of being employed in,—the carrying off (literally stealing) —and embarkation of slaves, men, women or children,—I, Sultan bin Suggur, Shaik the Joasmee tribe, do hereby agree to their being detained and searched, whenever

and wherever they may be fallen in with on the seas by the Cruisers of the British Government; and further, that upon its being ascertained that the crews have carried off (literally "stolen") and embarked slaves, their vessels shall be liable to seizure and confiscation by the aforesaid Cruisers.

No. 13. *From the Acting Chief Secretary to Government to the Officiating Resident in the Persian Gulf, dated 11th July, 1838.*

I am directed to acknowledge the receipt of your letter, dated the 28th\* April last, No. 15, with its enclosure, on the subject of kidnapping slaves from the Coast of Barbarah by the Joasmees, and to inform you, that the Right Hon'ble the Governor in Council highly approves of your having entered into an agreement with the Chief of the tribe for permitting our Cruisers to search and detain his vessels upon the high seas in all cases where their crews are open to the suspicion of being engaged in the kidnapping of slaves, and to confiscate such vessels in case such suspicions are proved to be well-founded.

2. The Governor in Council further instructs me to request, that you will still act according to the instructions of Government conveyed to you in Mr. Secretary Willoughby's letter, dated the 16th of April last, on the subject of the Slave trade carried on at the Ports in the Persian Gulf.

No. 14. *From Captain S. Hennell, Resident in the Persian Gulf, to the Secretary to the Government of Bombay, dated 3rd September, 1838.*

I have had the honor to receive your letter No. 1346, in this Department, under date the 11th July 1838,—approving of the agreement entered into with "Sultan ben Suggur," prohibiting the kidnapping of slaves from the coast of Barbarra,—and further directing me to act according to the instructions of the Government conveyed in your letter of the 18th April last.

2. The instructions thus referred to, I conclude, are those directing me to submit my opinion in detail, on the points adverted to in Mr. Mackenzie's communication, dated the 28th February 1838, and at the same time to suggest any measures which might occur to me as likely to mitigate the evil of the Slave trade carried on in these quarters.

3. For the convenience of reference I shall proceed to notice the several subjects alluded to by Mr. Mackenzie, by drawing them up in one column, and making such remarks as they may appear to call for on the opposite side.

\* See No. 11 *supra*.

1st. Mr. Mackenzie states, that with reference to the accusation of Abdoolah ben Iwuz, against the Joasmees regarding the abduction of a number of his country-women and their mal-treatment of himself,—it would appear, either the tribe were innocent of the charge or had found means of concealing the truth from the Government Agent at Shargah.

2d. That it would appear that a disgraceful traffic in young females, probably both by stealth and purchase, is carried on, not only in the territories of the Joasmees, but every port of consequence in the Persian Gulf.

3d. That had the Sheik of Koweet been a member of the General Treaty entered into by Sir W. G. Keir, with the pacificated Arabs, the conduct of some of his subjects in kidnapping Somalees would, by the 9th Article of that agreement, have come under the denomination of piracy.

4th. That the Somalees, from whom a great part of the supply seems to be drawn, are a free people and as they cannot become slaves without violence, consequently those conveyed to the Persian Gulf must be either kidnapped or purchased while prisoners of war,

On this point I have already reported to the Government, that in the absence of direct proof against the subjects of Sheik Sultan ben Suggur, I was of opinion, that instances of free persons being stolen and brought away for sale, had sometimes occurred among the Joasmees, and it was this belief which led me to enter into the agreement with the members of the General Treaty, prohibiting the stealing for purposes of traffic, not merely of free persons, but those coming under the denomination of slaves, whether men, women or children.

Mr. Mackenzie is right in stating, that this traffic in young women does exist in all the principal ports. But the greatest part of these females consist of Negroes with a few Abyssinians procured by purchase, and who are considered by the Mahomedan faith as legitimate bondswomen. Instances have, as stated before, taken place of "Somalees" being brought for sale, but they are rare, and in some of the ports on the Persian Coast were the circumstance to come to the knowledge of the Chief, they would be immediately set at liberty.

Unquestionably the proceedings of the subjects of the Sheik of Koweet in stealing the seven Somalee girls from the Coast of Barbarah, as reported by the native Agent at Muscat would come under the 9th Article of the General Treaty and as such be considered as piracy. But the ruler of Koweet is not a member of the Treaty in question and moreover calls himself a dependent of the Turkish Government. I propose however writing to him on the subject, and requesting him to exert his influence to put an end to such atrocities.

In making this observation, Mr. Mackenzie I conclude, means that a great part of the supply of those, who were originally "Hoor" or free, is taken from the Somalees in contradistinction to the supply of Negroes and Abyssinians who come under the denomination of "Abeed" or bondsmen.

and that to this practice a degree of moral turpitude attaches, which if insisted upon would tend considerably to diminish the evil.

The proportion of the "Somalees" to the two latter, is perhaps as one in one hundred, and these are as Mr. M. observes, probably either kidnapped or purchased as prisoners of war. It is certainly true that by the Mahomedan Law, the sale of free persons as slaves is expressly forbidden; but I doubt, whether in actual fact, any great degree of moral guilt is considered to be incurred by Mussulmans who engage in this traffic. Those who profess to act up to the tenet of the Koran, will not purchase or sell an individual of this description but the practice of disposing of prisoners of war as bondsmen, is not confined to Africa. I am myself aware of two instances in this country in which, Persian and Arab women and children, taken on the occasion of the capture of Bunder Dillum by the Troops of the Prince of Shiraz, and that of Mohumrah by the present Pasha of Bagdad, were carried away and sold as slaves.

5th. That the subject appears to offer a favorable opportunity for introducing the question of abolishing all traffic in slaves on the part of the Arabian Chiefs or those under their authority.

I have already in my letter to Government of the 10th January last, fully recorded my opinion regarding the impracticability of abolishing the traffic in slaves on the part of the Arabian Chiefs, without the payment of a large sum of money as an indemnification for the sacrifice made by them in surrendering, a practice in no way opposed to their own faith, in compliance with the religious views and opinions of others. At the same time, I expressed my belief that even were this indemnification afforded, causes beyond our controul would prevent any benefit being derived from its payment.

4. The only measures I can suggest, as likely to mitigate the evil of this nefarious traffic,—independently of the agreement entered into this year by the Arabian Chiefs who are Members of the General Treaty, viz. that prohibiting the kidnapping of slaves under penalty of the seizure and confiscation of the vessels of those concerned,—are *Firstly*, to endeavour to induce His Highness the Imaum to extend the Treaty concluded by Captain Moresby of H. M. Ship Menai, in 1822, so as to include in its provisions the Provinces of Cutch and Kattywar; an object which would be effected by extending the line, without which His Highness' vessels engaged in the Slave trade, are liable to seizure, from Diu Head, its present limit to Karachee; or in the event of this not being attainable, to the mouths of the Indus; *Secondly*, to obtain the consent of the Arabian Chiefs who are not

subjects, of Persia or Turkey, to the adoption of the same restrictive line; *Thirdly*, to have the right of search of all vessels found without the proscribed limits and open to the suspicion of being engaged in the Slave trade conceded to us by Treaty on the part of His Highness the Imaum, and the Maritime Arabian Chiefs; *Fourthly*, to endeavour to negotiate an agreement by which the purchase or sale of Somales or such other inhabitants of the African Coast as may come under the Mahomedan denomination of "Hoor" or free, shall be considered as equivalent to an act of piracy and punished accordingly.

*From the Secretary to Government of Bombay to the Resident in the Persian Gulf, dated 12th December, 1838.* No. 1A.

I am directed by the Hon'ble the Governor in Council to acknowledge the receipt of your letter dated the 3d<sup>o</sup> September last, submitting your opinion upon certain points adverted to by Dr. Mackenzie in his communication of the 28th February, 1838, regarding the abduction of young females from the Coast of Barbara and suggesting measures likely to mitigate the evil of the Slave trade in those quarters.

2. With reference to that part of the 3d para. of your communication noticing Mr. Mackenzie's remark that a disgraceful traffic in young women is carried on in every port of consequence in the Persian Gulph, I am desired to observe that it appears to Government highly improbable that the protection, secured to the Negroes of the Coast of Barbara under the Treaty with Sir W. Grant Keir, excludes the Abyssinians; many of whom are Christians and have the strongest claim to the protection of the British Government; but upon this point however you are requested to favor Government with your opinion.

3. Adverting to the remedial measures suggested by you in your letter dated the 10th<sup>th</sup> January last, I am directed to inform you that, the Governor in Council is not at all inclined, in favor of making pecuniary compensation to the Arab Chiefs in the Gulf, to induce them to renounce all participation in this revolting trade.

4. With reference to the last paragraph of your report, I am desired to inform you that in regard to those States who have not come under compact to abandon the Slave trade, measures only of a persuasive nature and not those of a compulsory kind, should be resorted to: and the Governor in Council sees no reason why in any new engagements which may be made, the Ports on the Coast of Muckram should not be included.

5. I am on this occasion desired to request that you will never cease to use your utmost exertions to advance the important object of restricting and suppressing this hateful traffic, on every opening that may offer; and if you are still of opinion that nothing further can be done at present in mitigation of the evil, than as suggested in the 4th paragraph of your letter, the Governor in Council directs that the measures proposed in this communication be attempted as soon as possible, and which, it is hoped, you will succeed in carrying into effect.

\* See No. 14 *Supra*.

† See No. 4 *Supra*.



6. The African children, however, must be held to be "free," and should be included in the engagement,—unless any obstacle may exist, not now within the knowledge of Government. And should any such obstacle appear to exist, you are requested to exert every endeavour on your part to remove the same.

7. In conclusion, I am desired to intimate to you that the Hon'ble the Governor in Council approves of your intention to write to the Ruler of Kameet regarding the proceeding of his subjects in stealing Somale girls from the Coast of Barbara and requesting him to exert his influence to put an end to such atrocities in future: but you are requested not to lose sight of the Abyssinians.

No. 16. *From Captain S. Hennell, Resident in the Persian Gulf, to the Secretary to Government of Bombay, dated 19th July, 1839.*

I have the honor to acknowledge your letter No. 2378\* in this Department, under date the 12th December last, upon the subject of the Slave trade carried on in the Gulf of Persia.

2. Adverting to the 2d paragraph of your communication, I beg respectfully to observe that in noticing Mr. Mackenzie's remark regarding "a disgraceful traffic in young women being carried on in every port of consequence in the Persian Gulf," I did not for a moment mean to imply that the protection secured to the Negroes of the Coast of Barbara under the Treaty with Sir W. Grant Keir, excluded Abyssinia. The carrying away a native of Abyssinia by force, is by that Treaty, equally an act of piracy, as kidnapping a Negro from Barbara, and would, if proved, be treated as such.

3. The Hon'ble the Governor in Council may rely with confidence upon my gladly availing myself of every opening which may offer to use my utmost exertions in the restriction and suppression of a traffic so opposed to all the best feelings of humanity. A great advance would be made in this important object, if the Imaum were persuaded to extend the line beyond which the vessels of His Highness engaged in the Slave trade are liable to seizure, from Diu Head to Cape Guadel on the Coast of Mekran. I have long been looking for the return of His Highness to Muscat, in order to have an opportunity of personally communicating with him upon the subject. But judging from the manner in which his return has been procrastinated, it would almost appear as if Syud Said were determined not to re-visit his Arabian territories, although it is again currently reported he intends shortly to do so. I found during my late visit to Muscat that it was perfectly useless discussing any question of this nature with the regency of that place, as they always gave out that they could not act in any affair, excepting under the special authority and sanction of His Highness the Imaum.

4. With regard to the maritime Arabian Chiefs, I have much satisfaction in enclosing the accompanying Arabic copies, and a translation, of engagements which have been entered into by Shaik Khuleefa of Aboothabee, Shaik Mukhtoom of Debay, Shaik Abdoollah of Amulgaveen, and Shaik Sultan of Rasel-Khymah. The

1 to 4  
Referring to copies of engagements entered into by Arabian Chiefs regarding slave trade.

first article of these engagements gives our vessels the right of search beyond a line drawn from Cape Delgado to Cape Guadel. The second renders any vessel belonging to the above Chiefs, found with slaves on board beyond the limits specified, liable to seizure and confiscation—the third makes the sale of Somalees an act of piracy. (a)

5th. The restrictive line and other remedial measures suggested by me in my letter of the 3d September 1838, have thus been agreed to by the principal Arabian Chiefs of the Gulf, and with these concessions I was obliged to remain satisfied for the present:—as with reference to the intrigues now carrying on among them by the emissaries of Khorshid Pasha, it appeared to me impolitic to press them further upon a subject they at all times approach with suspicion and reluctance.

*From the Acting Secretary to Government of Bombay to the Resident* No. 17.  
*in the Persian Gulf, dated 21st October, 1839.*

I am directed by the Honorable the Governor in Council, to acknowledge the receipt of your letter with its enclosures, dated the 19th July last, No. 60, and to request, that you will be pleased to embrace the first favorable opportunity of inducing His Highness the Imam of Muscat, to extend the line of prohibition of the Slave trade by his subjects, from Diu Head to Cape Guadel on the coast of Mekran. (b)

2. The engagements entered into by the principal maritime Arabian Chiefs, regarding Slave trade, are considered by the Governor in Council highly satisfactory: and he is pleased to approve the whole of your proceedings now reported.

3. The Superintendent of the Indian Navy has been requested to issue the necessary instructions to the Officers Commanding the Honorable Company's Vessels of War, on the subject of the articles of the engagements above adverted to.

(a) The translated treaty with the Raval Klymah Chief annexed to this letter, is omitted here, because printed in *extenso* in page 292 of the General Report.

(b) On the 17th December, 1839, the Imam was induced to assent to the extension of the line. The agreement signed by him is printed in *extenso* page 293 of the General Report.



## APPENDIX XX.

### CORRECTION OF SLAVES.

No. 1. Dispatch of the Honorable Court of Directors, dated 26th September 1838, suggesting the enactment of a law barring impunity of masters, in virtue of dominical right, for acts against slaves.

No. 2. Extract paragraphs 2, 3, 4 and 5, from a letter from the Officiating Secretary to the Government of India, with the Governor General to the Secretary to the President in Council, dated 18th December 1838.

No. 3. Extract paragraphs 2, 3 and 4, of a letter dated 7th January 1839, from the Officiating Secretary to the Government of India, Legislative Department, to Secretary to the Law Commission.

No. 4. Letter No. 222, dated 27th May 1839, from the Officiating Secretary to the Government of India to the Indian Law Commissioners, in reply to above with enclosures.

*N. B. In answer to this on the 1st February, 1839, the Law Commission addressed the Supreme Government its first Report on the subject of Slavery in India. It is printed in a distinct form.*

No. 5. Letter No. 223, same date, from same to same requesting a distinct report on the present state of the law and practice relative to the sale of children, and in particular with reference to crimes occasioned by such traffic.

No. 6. Letter, dated 30th July 1839, from the Chief Secretary to the Madras Government, to the Secretary to the Supreme Government of India. The despatch No. 1 had been referred to the Madras Government, which obtained and sent opinion of the Judges of the Madras Sudder Adawlut.

No. 7. Letter of the Acting Register, Madras Sudder Adawlut, dated 17th of July, referred to, and enclosed in above, containing opinion of the Sudder Adawlut.

No. 8. Letter from the Chief Secretary to the Bombay Government, to the Officiating Secretary to the Government of India, Legislative Department, dated 5th August, 1839. The Bombay Government had also been referred to, and obtained, and forwarded opinion of the Judges of the Bombay Sudder Adawlut.

- No. 9. Letter of the Register, Bombay Sudder Foujdaree Adawlut, containing opinion of the Judges, referred to, and inclosed in the above.
- No. 10. Letter, dated 2d September, from the Secretary to the Supreme Government of India, Legislative Department, to the Chief Secretary to the Government of Bombay, in reply to the foregoing.
- No. 11. Letter, dated 14th May 1840 of the Secretary to the Government of India, Legislative Department, in answer to above. It enclosed the following from the Register Sudder Adawlut and Advocate General, to whom reference had been made by the Bombay Government.
- No. 12. Letter, dated October 5th 1839, to the Advocate General, referred to in above.
- No. 13. Letter, dated 5th May 1840, from Register Sudder Foujdaree Adawlut, referred to in idem.
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## APPENDIX XX.

*Dispatch of the Honorable Court of Directors dated 26th  
September, 1838.*

No. 1.

Our attention has been drawn to the observations on the subject of Slavery contained in Note B, which is appended by the Law Commissioners to the Penal Code. In those observations it is recommended "that no act falling under the definition "of an offence should be exempted from punishment because it is committed by a "Master against a Slave." This recommendation has our entire concurrence; and we desire accordingly with reference to our dispatch on this subject, under date the 29th of August, last, (No. 14,) that you will lose no time in passing an enactment to the foregoing effect.

*Extract,—paragraphs 2,3,4 and 5,—from a letter from the Official-  
ing Secretary to the Government of India with the Governor  
General to the Secretary to the President in Council, dated  
18th December, 1838.*

No. 2.

Para. 2. The Governor General is impressed with the belief, that the principle has been invariably acknowledged, and acted up to in all Courts of Justice in Bengal,—such being the result of a minute inquiry entered into by the Sudder Dewanny Adawlut for the Lower Provinces within the last four years, and to the records of which reference may be easily had for the purpose of verifying His Lordship's impression.

3. A similar equitable principle is believed to have been generally adhered to in the N.W. Provinces, in the very few instances, in which persons have appeared before a Criminal Tribunal in the character of Master and Slave,—the spirit of the Regulations of Government requiring that all persons should be dealt within our Courts of Justice, on a footing of perfect equality.

4. It will remain for the Honourable the President in Council to determine whether, after a consideration of the question, reason might not be shown for defer-

ing the immediate enactment of a law, which there might be some doubt for not considering specially requisite,—with reference to, the limited prevalence of Slavery in the Bengal Presidency, the very mild character in which it exists, and the established principle in our Courts of refusing to recognize any distinction of persons in respect of criminal proceedings.

5. His Lordship has directed me in this letter more especially to refer to the Presidency of Bengal. But although he is less accurately informed of the law and practice in the other Presidencies, he is led to believe that the same principle of general protection is also extended to them; but he would wish on this head to have further information.

*Extract,—paragraphs 2, 3 and 4,—from a letter dated 7th January 1839, from the Officiating Secretary to the Government of India Legislative Department to the Secretary to the Law Commission.*

Para. 2. The President in Council,—with advertence to what is said in note B. of the proposed Penal Code, upon the present state of the Criminal Law in respect to Slaves, and to the observations made in the accompanying extract from the letter of the Officiating Secretary to the Right Honorable the Governor General,—requests that the Commissioners will be so good as to favor him with their opinion as to whether, the law, as now actually in force over every part of British India, is or is not such, as to make the passing of a law of the nature directed by the Honorable Court requisite, in order that the intention of the Home Government may be carried into complete effect.

3. If the Commissioners are of opinion that a special law is requisite with this view, they are requested to frame the draft of such a law for the consideration of the Council of India.

4. The subject of this dispatch will of course find a place in the general Report upon Slavery in India, which the Commissioners are now preparing; but I am directed to request that this letter may be specially answered at the earliest convenience of the Commissioners.

*From the Officiating Secretary to the Government of India, Legislative Department, to the Indian Law Commissioners dated 27th May, 1839.—No. 222.* No. 4.

With reference to your Report on the present state of the Criminal Law in India relating to Slaves, the Honorable the President in Council requests that you will collectively favor him with your opinions on the following points.

2. *First.* Whether or not it is expedient now to pass any law to the effect of that directed by the Honorable Court of Directors in their dispatch of the 26th September 1838, No. 15, whereof an Extract accompanied my letter to your address of the 7th January last.

3. The President in Council remarks on this point that,—as will appear from the perusal of,—B. of the Penal Code Note much variance in the practice of Magistrates exists as to recognizing the right of moderate correction by a master of his slave. It is desirable, that doubts upon this subject should be removed, if it can be done without the hazard of creating greater inconveniences.

4. Upon the expediency of formally abolishing the power of a master to correct his slave in any case, it may be desirable to consider whether it would be regarded,—with justice, or, in fact by any considerable portion of the community,—as an infringement of rights and a deterioration of property through the medium of the Criminal Law. It is also to be considered,—as the regulations for the punishment of servants do not appear to be applicable to slaves,—whether regarding such benefits as the slave may derive from his situation, it is proper that he should be placed in a much more independent condition than a servant, and be exempted from punishment of every kind, from whatever authority, and on whatever occasion.

5. It may deserve enquiry, whether an objection applies to any Special Law regulating the conduct of masters towards their Slaves (especially if it be thought proper that the law should contain provisions for enforcing by a magistrate the obedience of Slaves in like manner as servants,) as implying a recognition of a state of Slavery, towards the absolute extinction of which,—by the mere force, of time, of civilization, and of the lenient and well understood principles and practice of British administration, great advances are in progress. It has been observed, that if Government in this manner formally recognize the state of Slavery, it will incur a great danger of directly defeating its own intentions, and of becoming parties to the maintenance of that state, by being led into different measures for the regulation of the rights and obligations incident to it. It appears to be very important to compare,—on the one hand, the inconveniences to which it may be thought the law will give rise, not merely such as may necessarily result from it, but also such as it must be likely to produce if administered indiscreetly, or if made a plausible ground for discontent and excitement,—and, on the other, the practical benefits which the law may be expected to confer. As to this, it is to be observed that the real operation of the law, is much more limited than would, at first sight appear from the



terms of the provision suggested in Note B. of the Penal Code ; which provision, it must be recollected, was intended by the Law Commissioners to be applied to the whole Criminal Law, and not merely to supply a particular defect in the existing law. It was made to prohibit immoderate as well as moderate correction ; the former of which is already provided against by the existing law. It may deserve consideration whether the operation of the law in simply prohibiting moderate correction, will not, in fact, be still more limited by the general practice of magistrates upon complaints of the nature in question ; which is, at present, to lean in favor of the Slave. And regarding, the effects of usage, the distance of tribunals, the difficulty of establishing a charge of moderate correction, the trifling nature of the punishment which could with justice be inflicted on a master for moderately correcting his Slave, (it being understood that according to the existing law, the master would be punishable, if he corrected his Slave immoderately or even moderately, except for negligence, disobedience or disrespect,)—it may be proper to enquire whether the act would be likely to have any practical effect of a general or extensive nature.

6. Without entering into a discussion, upon the degree to which, in the present condition of Indian Society, all Slavery is excluded from amongst the Mahomedans by the strict letter of their own law, or upon the degree to which the Mahomedan law and usage have superseded the Hindoo Law of Slavery,—it must, be sufficiently clear, that the abhorrence of Slavery entertained by the English functionary is gradually establishing an administration of the law under which all slavery must fall. It may be certain that, with the lapse of time, that abhorrence will only increase and be diffused, and that any inconsistencies now existing in legal practise must be before long removed by uniform interpretations in favor of the Slave.

7. *Second.* Whether supposing a law of the nature proposed to be determined on, it could, with justice, be passed without compensation to the owners of Slaves ; and generally speaking what compensation would be equivalent to the practical change, which such a law would effect in the value of a Slave. Also whether it would be indispensable, that, if the power of moderate correction be taken away, some provisions for enforcing obedience in the nature of the regulations or by-laws, for enforcing the obedience of servants should be enacted.

8. *Third.* Supposing a law of the nature proposed to be passed, whether it would be expedient to pass it somewhat in the form of the appended draft Act A. which has been slightly altered from the draft prepared by the Law Commissioners, or in a more general form, as in the Appended draft Act B, which follows more more nearly the words of the Honorable Court's despatch. It has been objected to the Draft A, that it attempts to define and to restrict too closely. On the other hand, as will be seen from the Report, of the Law Commissioners the only legal effect of the law would be to take away the right of moderate chastisement for misconduct, such as may be exercised by a parent over his child, or a master over his apprentice. It may therefore deserve consideration, whether the act in the more general form, would import a great deal more than its real operation ; and though its terms might be very proper in a code, which embraced the whole criminal law,

they would be inappropriate in an act which contained only a very partial modification of the existing law. It might be observed that the use of such general terms would have the effect of representing the existing law, as much more defective than it really is, and of introducing much greater changes in the usages and rights of the native community than is either intended or effected.

#### DRAFT ACT A, ENCLOSED IN ABOVE.

It is hereby declared and enacted that, whoever assaults, imprisons, or inflicts any bodily injury upon any person being a Slave, either by way of punishment, or of compulsion, or in the prosecution of any purpose, or for any other cause, or under any other pretext whatsoever, under circumstances which would not have justified such assaulting, imprisoning, or inflicting bodily injury upon such person, if such person had not been a slave, is liable to be punished by all Courts of Criminal Jurisdiction within the territories subject to the Government of East India Company, as he would be liable to be punished by such Courts, if such person had not been a slave.

#### • DRAFT ACT B. ENCLOSED IN ABOVE.

It is hereby declared and enacted that no Act, which would be an offence if done against a free person, shall be exempted from punishment, because it is done against a slave.

*From Mr. J. P. Grant, Officiating Secretary to the Government of India, to the Indian Law Commissioners (No. 223) dated the 27th May, 1839.*

No. 2.

As bearing upon the general question of Slavery on India, to which my letter to your address of this date No. 222 relates, I am directed by the Hon'ble the President in Council, to request that you will prepare and submit for the consideration of Government, a note of the present state of the Law and practice in India relative to the sale of children.

Para. 2. It has been observed to the President in Council, that the subservience of a dancing girl to her keeper is perhaps not greater in India than that of the young prostitute to the Panders of Paris and of London, and no Magistrate in these days would construe it to be slavery, or in any way sanction the right of control which is assumed. Yet the power over these girls is acquired by purchase, and it is suspected that the traffic in children for the supply of the Zenana and the Brothel is a source of extensive crime, upon the temptation to which gangs even of aya-

tematic murderers, as appears by the published report upon the Megapana thugs, have been founded. All crimes indeed, by which the possession of the child is obtained, are already punishable by Law, but it has been observed that such crimes are not easily detected, and that it seems probable that far too much of facility exists in the traffic which follows upon the possession:

3. The opinion and the suggestions of the Indian Law Commissioners are requested on this subject in a separate report, as it appears to the President in Council to be a question, which, supposing it to require legislation, might be conveniently legislated upon with reference to the question to which my separate letter of this date relates.

*From Mr. H. Chamier, Chief Secretary to Government Fort St. George, to Mr. J. P. Grant, Officiating Secretary to the Government of India, dated 30th July 1839.*

With reference to your letter of the 27th May last, No. 346, I am directed by the Right Honorable the Governor in Council to transmit for the information of the Honorable the President in Council the accompanying copy of a letter from the acting Register of the Sudder Adawlut, submitting the sentiments of that Court on the several points referred to in your letter under reply on the subject of Slavery in India, and to intimate that his Lordship in Council entirely concurs in the opinions expressed by the Judges, and considers it will be preferable not to legislate at all in respect to Slavery, until the whole question in all its bearings has been fully considered.

*From Mr. J. H. Davidson, Acting Register, Sudder Adawlut, to the Chief Secretary to the Government of Bombay, dated 17th July, 1839.*

I am directed by the Judges of the Sudder Adawlut to acknowledge the receipt of the extract from the minutes of consultation under date the 2d July 1839, No. 530, forwarding copies of a letter dated the 27th May last, from the officiating Secretary to the Government of India and of the papers which accompanied that Communication on the subject of Slavery in India, with reference especially to a dispatch from the Honorable the Court of Directors desiring the Government of

India to pass an act to the effect of a provision suggested in note B. of the Penal Code and requiring the Court of Sudder Adawlut to submit their sentiments on the several points therein referred to.

2. The first question on which the sentiments of this Court are required by Government is whether or not it is expedient now to pass any special law to the effect of that of which a copy is annexed declaring and enacting that any assault committed or personal injury inflicted on a slave shall be punishable in the same manner as if such assault had been committed or personal injury inflicted on a free person.

3. With reference to the observation in paragraph 5 of the letter from the officiating Secretary to the Government of India dated 27th May 1839, that "much variance in the practice of Magistrates exists as to recognizing the right of moderate correction by a master of his slave" the Judges of the Sudder Adawlut remark that the circular order of the Foujdaree Adawlut of the 27th November 1820, has laid down a uniform course of procedure in this respect; and that in as much as no specific penalty is prescribed in the Regulations for assaults exceeding the Jurisdiction of the Magistrate under Section XXXII Regulation IX 1816, the criminal Judge is required under the provisions of Section VII Regulation X, of 1816, as illustrated by the circulated order of 28th January 1828, to be guided in such cases, by the Mahomedan law, which does not make a master liable to punishment for correcting his slave in a lawful manner for an offence, incurring discretionary punishment under that law.

4. Regulations for the punishment of servants, for breach of duty "or departure from proper demeanour" have been enacted in Section XVIII Regulation XII of 1827 in the code of Bombay; but there are no such provisions in force under this Presidency; where therefore the comparison, between the condition of a servant, and that of a Slave exempted from correction by his master, cannot be made.

5. In the note B to the Penal Code it appears to be argued, that the masters of Slaves, in these territories, exact service by the use of violence, and that the sense of reciprocal benefit is not brought into operation under the system of Slavery there prevailing.

6. But the information contained in the official reports on this subject does not appear to warrant this conclusion. It is certain that the ill-treatment of Slaves by their masters is not general, if indeed it exists at all to any great degree: and as a motive, of, the nature of that adverted to by the Law Commission, as not existing, is observable that the Slave is fed, housed and clothed by his master. The enactment of a Penal Code, abrogating all reference to the Mahomedan Law will set aside the rule above mentioned, and under the general provisions for the punishment of assaults, the masters of Slaves will, by the operation of that "abhorrence of Slavery" noticed in the letter from the Officiating Secretary to the Government of India, be deprived of any power, which they may now exercise, of enforcing obedience by personal correction.

7. Some interval must elapse before the promulgation of a Penal Code. The subordinate functionaries, whose opinions have been required upon that framed by the Law Commission, have not yet all sent in their opinions, and the Judges of this Court have yet to commence the laborious revision of this code imposed upon them, as well as to digest the opinions laid before them. The occupation of their time and attention by their proper judicial duties leaves little leisure for this arduous undertaking.

8. But it does not appear to the Court of Sudder Adawlut that in the mean time any special enactment on the subject is required. The observations in the letter under consideration shew, that there are grave reasons for questioning the expediency of any special legislation on the point in question, and that any practical good, commensurate with the danger of evil, would result from enacting the proposed law cannot in the opinion of the Judges of the Sudder Adawlut be expected.

9. With reference to the second question in paragraph 8, it appears to the Judges that no satisfactory conclusion as to the claim for compensation could be formed, or estimate as to the quantum of compensation be made, without local enquiries, into which it would not be proper for this Court to enter without the special authority of the Government.

10. The provisions in the Bombay code for the punishment of servants would be nugatory in the case of slaves from whom a fine could not, consistently be levied and to whom "ordinary imprisonment without labour" for fourteen days, would be rather a boon than a punishment.

11. If a law of the nature proposed shall be determined upon, there can, in the opinion of the Judges of the Sudder Adawlut, be no doubt that the draft act A would be preferable to B, for the reasons stated in para: 9 of Mr. Secretary Grant's letter.

12. The latter Act would in the opinion of the Sudder Adawlut, be calculated to occasion serious misconception.

*From Mr. L. R. Reid, Acting Chief Secretary to Government, No. A.  
Judicial Department, Bombay, to the Officiating Secretary to  
the Government of India, in the Legislative Department, dated  
5th August, 1839.*

In acknowledging the receipt of your letter dated the 27th of May last, No. 342 enclosing the draft of a proposed Act, providing, that a personal injury or an assault committed on a slave shall be punishable in the same manner as if committed on a free person,—I am directed by the Honorable the Governor in Council, to transmit to you, to be laid before the Honorable the President in Council, copy of a letter from the Register of the Sudder Foudarree Adawlut, dated the 20th ultimo, reporting the opinion of the Judges of that Court, that there is no necessity to pass a special law for the protection of slaves under this Presidency,—since the laws at present in force, are applicable to them, and an offence which would be punishable when committed against a free man would not be exempt from punishment if done against a slave.

*Mr. P. N. LeGeyt, Register Sudder Foudarree Adawlut, Bombay, No. A.  
to Mr. J. P. Willoughby, Secretary to Government of Bom-  
bay, dated 20th July, 1839.*

I am directed by the Judges of the Sudder Foudarree Adawlut, to acknowledge your letter No. 1675, dated the 3d instant, giving cover to a despatch from the Officiating Secretary to the Government of India, on the subject of a proposed law relative to a personal injury or an assault committed on a slave, and requesting their opinion on the same.

2 In reply I am instructed to observe that there does not appear to be any necessity to pass a special law for the protection of slaves throughout the Zillahs of this Presidency,—as the law in force is as applicable to them as to free men, and no offence done against a freeman, is by the Bombay Code exempted from punishment because it is done against a slave.

3. As the power of a master to correct his slave has never been admitted by our codes, the general practice of the Magistrates has been against it,—although exceptions are quoted in the note B. to the Penal Code, and it is not considered that a strict enforcement of this rule would be looked upon by the community as an infringement of right, or a deterioration of property: for masters are also protected against the misconduct of their slaves, as the regulations for the punishment of servants, contained in Section 18, Regulation XII of 1827, have been ruled by this Court, under date the 4th November 1830, to be applicable to slaves.

No. 18.

*From Mr. J. P. Grant, Officiating Secretary to the Government of India, Legislative Department, to the Acting Chief Secretary to the Government of Bombay, dated 2d September, 1839.*

I am directed by the Honorable the President in Council to acknowledge the receipt of your letter No. 2037, under date the 5th ultimo, with its enclosure, and in reply to communicate the following observations.

Para. 2. His Honor in Council is of opinion that, for the purpose of the Report on Slavery, as well as with respect to the particular Act under consideration, it will be desirable to enquire of the Company's Advocate at Bombay, whether in any proceedings for false imprisonment, the Bombay Regulation would amount to a legal justification,—the person imprisoned being a slave, and not under any specific contract of service?

3. It is desirable also to enquire of the Judges of the Sudder Foujdaree Adawlut at Bombay, what is the number of cases in which the Regulation has been put in force against slaves, and whether, under the Bombay Regulations, a master punishing a servant, (not being a slave) young or old, by moderate correction for gross negligence or misconduct, would be punishable as for an assault?

4. With regard to the "general practice of Magistrates,"—there is no doubt that, as regards immoderate correction or even moderate correction without fault, every kind of law, and the universal practice of Magistrates throughout India, is in favor of the slave. What His Honor in Council particularly desires to know, is, whether the Sudder Foujdaree Adawlut mean that the general practice applies to moderate correction for negligence or misconduct. If such be the case, he is further desirous of being informed of the number of cases, in which masters have been punished by Magistrates for moderate correction of their slaves.

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from *Mr. W. R. Morris, Secretary to Government, Judicial Department, Bombay*, to *Mr. T. H. Maddock, Secretary to the Government of India, in the Legislative Department*, dated 14th May, 1840. No. 11.

I am directed by the Honorable the Governor in Council to acknowledge the receipt of the Officiating Secretary's letter, dated the 2d of September last, No. 472, relative to a proposed law providing that a personal injury or assault committed on a slave shall be punished in the same manner as if committed on a free person; and to reply, to transmit to you for the purpose of being laid before the Right Honorable the Governor General of India in Council, copies of the documents noted in the margin,\* submitting the opinion of the Judges of the Sudder Adawlut, and of the Acting Advocate General, on the points noticed in the 2d, 3d and 4th paragraphs of the said letter. Vis. No. 1, 12, and 13, of this Appendix.

from *Mr. Howard, Acting Advocate General, to the Acting Chief Secretary to Government of Bombay*, dated 5th October, 1839. No. 12.

I have had the honor to receive your letter of the third of this month, with enclosures.

With respect to the second paragraph of the letter from the Officiating Secretary to the Government of India, dated the second ultimo,—there is no regulation or other enactment in Bombay authorizing Slavery in any form. The English law, except in certain cases of contract and inheritance, extends over the whole Island. I can scarcely add therefore, that to an action or criminal prosecution for false imprisonment, it would be no defence to aver that the plaintiff or prosecutor was the slave of the defendant.



No. 12.

*From Mr. G. Grant Register, Sudder Fowjdaree Addlut, to M  
W. R. Morris, Secretary to Government, Judicial Department  
Bombay, dated 5th May, 1840.*

With reference to Mr. Chief Secretary Reid's letter, dated 3rd October, 1839, No. 2417, and its accompaniment being copy of a letter from the Secretary to the Government of India, dated 2d September, 1839, on the subject of a proposed Law for the protection of Slaves in cases of personal injury or assault committed on them,—I am directed by the Judges to state for the information of the Government of India, that there are no cases on record of the Regulation against Slaves having been put in force in this Presidency,—save at Rutnagiree where there are a few instances of female Slaves, who had absconded, having been restored to their masters.

Para. 2 With regard to the query "whether under the Bombay Regulations, a master punishing a servant (not being a slave) by moderate correction, for gross negligence or misconduct, would be punishable as for an assault," the Judges are of opinion that the master would be obnoxious to penal consequence in point of Law. So much however, do the interests of master and servant reciprocate, that in point of fact, the law as in other parallel cases is seldom appealed to; and when it is, its penal exercise must be entirely governed by the character of each individual case. For instance, the punishment of a master for correcting his servant would be graduated by the existing or aggravating features of the offence. The knowledge of this effect, acts, I am desired to observe, as a very salutary restraint on the master, whilst it simultaneously checks improper conduct on the part of the servant, and that the mere knowledge of the existence of this law, combined with the reciprocal interests of master and servant above alluded to, effects what should be the aim of all penal Law,—namely the prevention of necessity for its exercise.

3. In reply to the other points of reference, I am directed to state that the only case in which the law has been enforced against a master for ill-treating a Slave, appears on the records of the Surat Zillah; where,—a person was punished in 1835, with a fine of Rs. 5, or five day's imprisonment for putting his Slave in stocks,—and in the following years, two persons were accused of a similar offence and dismissed for want of proof. No other case appears to have occurred through out the zillahs under this Presidency.













